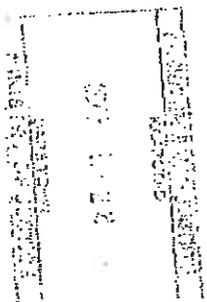


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THE PRESIDENCY  
REPUBLIC OF SOUTH AFRICA  
Private Bag X1900, Pretoria, 0001

22 October 2007

Ms Brigitte Mabandla, MP  
Minister of Justice and Constitutional Affairs  
Private Bag X276  
PRETORIA  
0001

Dear Minister:

**STATE V VAN DER MERWE AND OTHERS**

As you would know, the case of those who were involved in my poisoning, namely, Johannes Veldt VAN DER MERWE, Adriaan Johannes VLOK, Christoffel Lodewikus SMITH, Gert Jacobus Louis Hosea OTTO and Hermanus Johannes VAN STADEN was disposed of at the Pretoria High Court on the 17<sup>th</sup> August 2007 through a Plea Bargaining arrangement between the accused and the State.

Although I am pleased that we have concluded this matter, I am concerned about a number of issues, which I would like to raise with you and, hereby, the Government of the Republic of South Africa. I hope that you will find it necessary to share my concerns with Cabinet as I believe that this will be helpful in handling other matters of a similar nature.

The first point I would like to raise is the handling of this matter by the National Prosecuting Authority (NPA). From my interaction with the relevant officials within the NPA, it is clear to me that the said officials are simply the wrong people to deal with the post-TRC matters. My experience with them is that they will not be able to relate to victims of gross violation of human rights or their next of kin with the sensitivity that is required. In fact, they did not seem to understand the nature of the challenge we were facing. Firstly, my court case was used to fight battles between the NPA and the Government about the "Guidelines" for dealing with post-TRC cases. Throughout this process I was left with a feeling that no one in fact cared about me – as a "victim". What mattered were the politics around the handling of the post-TRC cases and how people would win their battles.

As part of the consultative processes relating to the case of the State v Van der Merwe and Others, Adv. Ackerman, the Special Director in the Priority Crimes Litigation Unit, and his assistant visited me (as the victim). Instead of just consulting me as the victim, he entered into an acrimonious argument with me about the approach of the

WMM bag of Assistant

Government on 'post-TRC' matters and the Guidelines. From this interaction, it was clear that he was radically opposed to the Guidelines as agreed upon by Cabinet and the Parliament of the Republic of South Africa. In fact, he seemed to be more interested in prosecution for the sake of it rather than the management of this difficult 'post-TRC' process.

What I detested most was that my case was being used to fight their battles with the Government. In pursuit of this objective, a draft letter which was constructed in a manner that would enhance their position in the prescribed forum with other departments was presented to me for my signature. What was more disgusting for me was that when I refused to sign the draft letter, Adv. Ackerman then threatened to use Section 204 of the Criminal Procedures Act against me to force me to surrender all the information he claimed I had received from Mr. Vlok on my poisoning. I dared him to do so, and reminded him that this was tried against me during the apartheid days and it did not work and that there is no reason why it would work now. He backed off and left. His colleague who was with him is my witness in this regard.

Secondly, I was not consulted about the details of the Plea Bargaining Agreement. The NIDPP informed me in writing about the arrangements for suspended sentences for the accused. My views were not solicited in this regard. In fact, I was not informed about the basis for the Plea Bargaining Arrangements. I only saw the Plea Bargaining Agreement during the proceedings in Court. I was particularly distressed by the submission in Section E, paragraph 6.3 of the 'plea agreement' which claims that I was consulted about it and that I was 'satisfied with the plea agreement' and that I did "not wish to make any further representation in connection with the matter". The reality is that I could not be satisfied with something I had not seen. Having now considered it, there are naturally a number of issues I have concerns about which I had no opportunity to deal with. This leads me to the second matter I would like to raise.

Failure to consult me before the Plea Bargaining Arrangements were made resulted in the presentation of documents in Court which did not only have factual errors, but were politically and philosophically problematic to me as a victim. Firstly, my background is presented as if I was both General-Secretary of the SACC and Vice President of the UDF when, in fact, I held these positions at different times (see paragraph 28). Secondly, the Plea Agreement document falsely argues that it was the stated policy of the UDF "to propagate and support ... violence for the ... purpose of rendering the country ungovernable" (own emphasis).

There are three issues I would like to raise on matters of substance. Firstly, Count 2 was withdrawn as part of the plea arrangements, and by so doing, the collaboration between the Security Police Special Unit and Wouter Basson and his team in producing and procuring the lethal chemicals used was not probed further when it is clear from the plea bargain arrangement document that more information could have been extracted. Secondly, there is a reference in the plea arrangement document to a 'list' containing the names of 'high profile' members of the anti-apartheid liberation struggle who were to be acted against, and in 'extreme cases' be killed (paragraph 37). There is no indication that this matter was probed further. The State should be interested, for instance, in a copy of such a list to determine as to who else was on the list and what happened to them. Thirdly, there is no indication as to what discussions the NPA had with General Basie Smit and Dr. Basson to source more information about their operations and what the State is planning to do about them. Fourthly, there is no indication that there has

v. Mkhaga  
I agree with  
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~~Plaintiff~~  
Not true  
was present  
No threats  
made in  
my  
presence

been a process to probe the involvement of the SADF on these matters and what happened to their list of external targets.

The Guidelines for the 'post TRC' cases make it clear that our objective is not just prosecution but the need to solicit more information about what happened to victims of gross violation of human rights, especially those who died or disappeared. Moreover, it is to get a better understanding of how the old national security management system functioned to make sure it does not happen again. Although the Van der Merwe and Others case assisted me to know more about what happened to me, failure to follow the Guidelines (and thereby collaborate with other entities of the State, like intelligence services, the Police and the Defence Force) made us miss opportunities to learn more about what befell other people who might have been affected in the same way.

Lastly, I found the Court itself completely 'foreign' and insensitive to me as a 'victim'. Firstly, the Court was completely white, from the Judge to the Prosecutors, defence lawyers and the accused. But worse, the proceedings were conducted in Afrikaans without due regard to the 'victim', especially where technical, legal and court processes are involved. As a result, I missed the greater part of the proceedings in the court. I am sure that we can make the court friendlier to victims than what I experienced that day.

On the side of Government, I felt that the handling of the *State v Van der Merwe and Others* case was left to me, as a 'victim', to explain to the public instead of the State or the Government. No effort was made by Government to manage this process or deal with public perceptions about it. No one got involved to make sure that the process achieved the objectives Government had agreed upon. Clearly, once the NPA acted unilaterally the Government apparently walked away from the matter. I do not think that this hands-off approach assisted us in any way to achieve the objectives set out in the Guidelines.

I shall be pleased, Minister, if the Government could deal with all the matters I have raised as well as remedy the situation before another case is dealt with.

Sincerely Yours,



FRANK CHIKANE  
DIRECTOR-GENERAL

COPY

MJMZ

Office of the  
National Director of Public  
Prosecutions



The National Prosecuting Authority of South Africa  
Igunya Jikelele Labeshutshisi boMzantsi Afrika  
Die Nasionale Vervolgingsgesag van Suid-Afrika

24 January 2008

Victoria & Griffiths  
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Ms B Mabandla, MP  
Minister of Justice & Constitutional Development  
Private Bag X276  
PRETORIA  
0001

Dear Minister

**REPRESENTATIONS: REV FRANK CHIKANE**

As requested, find herewith my response to the complaints raised by Rev Chikane in his letter, dated 22 October 2007, addressed to you. I intend dealing with these matters *seriatim* as I have numbered the paragraphs 1 to 12 (a numbered copy of Rev Chikane's letter is attached hereto for ease of reference as **Annexure "A"**).

Ad par 1

I have no comments.

Ad par 2

I have no comments.

Ad par 3

1. The officials who dealt with post-TRC matters during the relevant period were:
  - (i) Adv Vusi Pikoli;
  - (ii) Dr MS Ramaite;
  - (iii) Adv AR Ackermann; and
  - (iv) Adv MC Mhaga.



2. As a result of this letter and the prominent role played by Adv Ackermann, I have deemed it prudent to relieve him from all TRC-related duties since November 2007.
3. As you are aware, Adv Pikoli has been suspended and his future role is presently the subject of the Ghinwala Inquiry.
4. I have decided that all future post-TRC investigations and prosecutions be managed by Dr Ramaite, Adv Mhaga and the TRC Task Team.

Ad par 4

Both Advocates Ackermann and Mhaga deny that there was an acrimonious argument. See also par 5 *infra*.

Adv Ackermann admits that he had some concerns about the Guidelines and in a number of official memoranda, raised his concerns on the constitutionality thereof. Despite reservations, he diligently applied the criteria as stipulated in the Guidelines. With the wisdom of hindsight, it appears that there was some merit in Adv Ackermann's reservations. Indicative thereof is the institution of a civil action in the High Court, challenging the validity of the TRC Guidelines. (See ***Nkadimeng & Others v the NDPP and the Minister of Justice & Constitutional Development*** (Case No 32079/07)).

Ad par 5

1. The gravamen of Rev Chikane's complaint is his perception of being used as a pawn in a battle between Government and the NPA. No mention is made of any specific Government department.
2. Rev Chikane further states that he was presented with a pre-drafted letter, which in his view was compiled in such a manner as to enhance the NPA's position in this so-called battle.
3. Adv Ackermann confirms that a pre-drafted letter was indeed presented to Rev Chikane after the former had explained the letter's *rationale* to Rev Chikane.
4. It is deemed necessary to briefly explain the background which led to the presentation thereof to Rev Chikane:
  - (i) In December 2004, prior to the drafting of the TRC Guidelines, Adv Ackermann had a consultation with Rev Chikane where *inter alia* the intended prosecution was

discussed. During this consultation, Rev Chikane fully agreed to the said prosecution.

- (ii) During December 2005, the TRC Guidelines came into operation. In terms of par A.4 thereof, the views of a victim are one of the factors to be taken into consideration prior to the institution of a prosecution.
- (iii) The TRC Guidelines provide for perpetrators to make representations to the NDPP. The perpetrators in *S v Van der Merwe & Others* submitted representations through their legal representative, which were dealt with by the NDPP and Dr Pretorius. Adv Ackermann was not involved in this process at all.
- (iv) After the conclusion of the process, Adv Pikoli instructed Adv Ackermann to proceed with the prosecution in terms of the Guidelines. Adv Pikoli also informed Adv Ackermann that Rev Chikane had been consulted and had intimated that the legal process should take its course.
- (v) During a TRC Task Team meeting thereafter, the representative of the SAPS informed the meeting that according to National Commissioner Selebi, Rev Chikane was against the intended prosecution.
- (vi) After Adv Ackermann had once again enquired from Adv Pikoli as to Rev Chikane's attitude to the intended prosecution, Adv Pikoli then once more contacted Rev Chikane, who apparently confirmed his previous views on the matter. Adv Pikoli thereafter instructed Adv Ackermann to immediately schedule a consultation with Rev Chikane and to arrange for Adv Mhaga to accompany him to this consultation.
- (vii) In order to prevent any further confusion regarding Rev Chikane's attitude as far as the intended prosecution was concerned, Adv Ackermann deemed it imperative to obtain his written views.
- (viii) Since Rev Chikane had conveyed his attitude to Advocates Pikoli and Ackermann on numerous occasions, the latter took the liberty of drafting a letter in Rev Chikane's name (a copy of which is attached hereto as **Annexure "B"**.)

- (ix) Upon presentation of the letter, Rev Chikane refused to append his signature thereto and declined the suggestion to formulate his views in writing.
5. With regard to Rev Chikane's alleged claims of threats by Adv Ackermann during this meeting, the latter vehemently denies having threatened Rev Chikane in any manner. On the contrary, Adv Ackermann is of the view that he had a very pleasant meeting with Rev Chikane. Adv Mhaga, who was at all times present, also denies having witnessed any threats during the meeting. Adv Mhaga is further of the view that the interaction between the parties was conducted in a very amicable manner. Both Advocates Ackermann and Mhaga are of the view that no animosity was revealed by either of the parties during the meeting.

Ad par 6

Adv Ackermann admits not having consulted with Rev Chikane on the details of the Plea & Sentence Agreement. Adv Chikane was however informed of the proposed suspended sentences.

However, in various newspaper articles, after the conclusion of the trial, Rev Chikane publicly expressed his satisfaction with the proceedings (**Annexure "C"**).

With regard to the concerns raised by Rev Chikane relating to the stated policy of the UDF, it is important to note that in Plea & Sentence Agreements, the version of an accused person also has to be incorporated.

The following *dicta* in **S v Esterhuizen 2005 (1) SACR 490 at 494 e – h** is apt in explaining plea bargaining in terms of Section 105A of Act 51 of 1977:

- "e        ....  
*Indeed it will often be so, once plea negotiations are entered into, that the accused's defence will also be known to the State. The contents of the State's dockets and the strength of the State's case will be known to the accused.*
- f        *It must be so that substantial room for an adjustment of the charges (including the withdrawal of certain charges and the possible acceptance of competent verdicts on other charges) is open to the State. It must also be clear that in the give and take of negotiations, an accused person may tender in the negotiation to plead guilty to a charge of which that accused*
- g        *person is guilty, but in respect of which the State may have had considerable difficulty in achieving a conviction.*

h In return for the concession of a plea of guilty to a charge difficult to prove, it must be so that the Legislature has envisaged that the bargaining mechanism would bring home a result which satisfies the interests of justice. These would be that where a crime has been committed a conviction has been achieved. The price may be that the sentence which would normally flow from the commission of such a crime is lower than might otherwise have been imposed. This does not mean that justice has not been achieved."

#### Ad par 7

It is incorrectly stated by Rev Chikane that his background had been presented as though he held the position of General-Secretary of the SACC and Vice President of the UDF simultaneously.

Par 28 of the English version of the Plea & Sentence Agreement states:

"... he was, *inter alia* the Secretary General of the South African Council of Churches and the Vice President of the United Democratic Front".

The use of the term "*inter alia*" clearly denotes that Rev Chikane held these two positions at a particular point in time in his life and not simultaneously.

#### Ad par 8

#### Withdrawal of Count 2

Count 2 was included as a legal tactical strategy to *inter alia* have key evidence admitted should the accused have pleaded not guilty. In any event, the available evidence which the prosecution relied on is in the public domain (See **S v Wouter Basson**).

#### The list

I am informed by Adv Ackermann that extensive attempts have been made to obtain knowledge of the contents of the list. He even went as far to use it as a bargaining tool not to accept any plea agreement. All avenues to obtain the list have been explored. Matters of this nature would not form part of a plea agreement.

The legal representative of the accused in the plea agreement categorically stated that none of the accused recalled the listed names.

### Discussions with Smit and Basson

Basson has on numerous occasions publicly declared his innocence, most recently, during his hearing at the Medical Council.

Discussions were held between Smit's legal representative and Adv Ackermann. Smit denied any knowledge or involvement in these crimes.

One of the conditions negotiated by Adv Ackermann and which forms part of the Plea Agreement in *S v Van der Merwe & Others* is that the accused had undertaken to testify against Smit.

In August 2007, Adv Ackermann requested the NDPP's authorisation to proceed with an investigation against Basie Smit (See Annexure "D").

### SADF Involvement

Dr Pretorius had extensive consultations with members of the SADF in this regard.

### Ad par 9

The NPA is in full agreement with the sentiments expressed by Rev Chikane, save for the last sentence.

### Ad par 10

A further complaint raised by Rev Chikane was that *"the Court was completely white, from the Judge to the Prosecutors, defence lawyers and the accused."*

This is unfortunate, but the following should be noted:

- (i) The prosecutor, Adv Ackermann, was appointed and directed to do these cases by the former NDPP, Mr B Ngcuka. This was later endorsed by Adv Pikoli.
- (ii) The Judge President, the Honourable Mr Justice B Ngoepe, appointed the judge who presided over the trial.
- (iii) The accused had a right to be represented by a legal representative of their own choice.
- (iv) The prosecutor had no control over who the accused were.

With regard to the complaint of the proceedings having been conducted in Afrikaans, Adv Ackermann took the following pro-active measures in ensuring that the court proceedings would be accessible to the gallery:

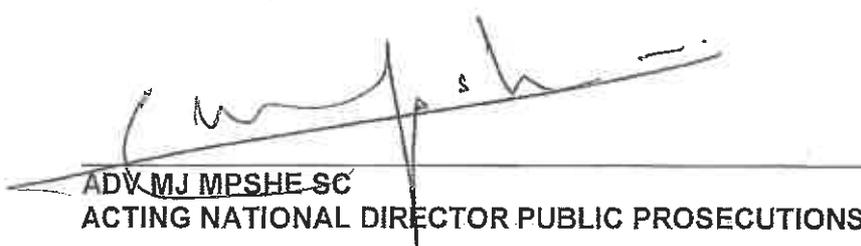
The indictment, sentence and plea agreement as well as his address to the Court were translated into English and 40 copies thereof were distributed to all stakeholders prior to the commencement of the trial.

It would have been prudent for a court interpreter to be present to translate the proceedings. This would have made the proceedings more victim-friendly.

Ad par 11

I do not have any comments on Rev Chikane's opinion in this regard, save to state that the NPA did not act unilaterally.

Yours sincerely



ADV MJ MPSHE SC  
ACTING NATIONAL DIRECTOR PUBLIC PROSECUTIONS

MJM3A

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Office of the Head  
Priority Crimes Litigation Unit  
VGM Building  
PRETORIA

P. O. Box 752,  
PRETORIA  
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VGM Building  
Hartley St.  
Weavind Park  
0001  
Pretoria  
South Africa

**INTERNAL MEMORANDUM**

**TO: DR MS RAMAITE SC  
DEPUTY NATIONAL DIRECTOR OF PUBLIC  
PROSECUTIONS**

**FROM: ADV AR ACKERMAN SC  
SPECIAL DIRECTOR OF PUBLIC PROSECUTIONS  
AND HEAD: PCLU**

**SUBJECT: TRC TASK TEAM**

**DATE: 5 JUNE 2008**

Dear Dr Ramaite

With reference to the meeting between you, Adv Macadam and myself earlier this morning, I confirm the following:

Tel: (012) 845 6431  
Cell: 082 498 6033

1. That Adv Macadam will supervise and manage Adv Mhaga's activities in respect of TRC matters;
2. That Adv Macadam will attend all meetings of the Task Team;
3. That Adv Macadam will be involved in all high level discussions with the Acting NDPP in connection with TRC matters;
4. That attention will be paid to the status of all investigations registered to date and in this regard, Dr Bukau will also be co-opted to deal with certain matters;
5. That the prosecutors will not perform functions which will usurp the duties of SAPS and NIA;

6. That the PCLU, as contemplated by the Guidelines, will be responsible for the operational management of TRC matters under your supervision and that of the NDPP.

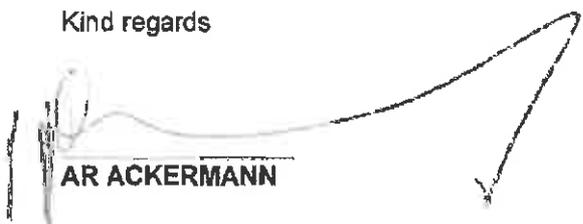
An additional matter which I wish to bring to your attention is the Pebco 3 matter, where the accused are due to appear on a final remand in the Port Elizabeth High Court on 5 August 2008. The accused had, since 2004, appeared in the High Court on indictment, but on each occasion, the matter has been postponed, due to the fact that the review of their refusal of amnesty by the TRC has not been finalized. The DoJ&CD is responsible for compiling a record and enrolling the review before the TPD. To date, this has not taken place and on each occasion when we take this matter up, we are informed that documents are missing, etc. On more than one occasion, we had been asked to consider withdrawing the criminal case, because of the problems with finalizing the review.

The fact that the matter has not gone to trial is of considerable distress and dissatisfaction with the victims. They have complained to the Minister and have also displayed their dissatisfaction at court on the dates of the postponements.

A decision must be taken as to how the next court appearance will be managed. We believe that this should first be discussed between ourselves and the Acting NDPP, whereafter the Task Team must be consulted and thereafter, a memorandum submitted to the Minister.

Our *prima facie* views are that the Court would not grant another postponement and in any event, this would not be acceptable to the victims. The review is only for the benefit of the accused and one option would be to proceed with the prosecution. We however believe that a judge is highly unlikely to order a trial when the accused has the opportunity of receiving amnesty and is in no way to blame for the failure to have the review process finalized. We would also have to establish whether the matter is in fact at this stage ready for trial, since the witnesses were last consulted almost five years ago. The Court may require or we would be obliged to call someone senior from the DoJ&CD to testify under oath as to the reasons for the delay with the review. We see both the NPA and the DoJ&CD being criticized severely by the victims and the media.

Kind regards



AR ACKERMANN

MJM 3B

**TRC COMMITTEE MEMBERS**

NAME	DEPT.	CONTACT No.	EMAIL	
Anton Ackeremann	NPA (FCLU)	012-845 6474	arackermann@npa.gov.za	
Mthunzi Mhaga	NPA (FCLU)	012-845 6398	mcmhaga@npa.gov.za	
Dr S Ramaite	NPA (NSSD)	012-845 6765	mrsramaite@npa.gov.za	Convenor
Marlyn Raswiswi	Justice	012-315 1730 0826600463		
Yvonne Mabule	NIA	012-427 4498 0827872853	yvonnem@nia.gov.za	
Philip Jacobs	SAPS	012-395 0063	jacobspe@saps.gov.za	
Josias Lekalakala	SAPS	0825745870	milekalakal@telkomsa.net	
Brian Koopedi	NIA	012-4262602 0824168357	bkoopedi@nia.gov.za	
AT Mngwenwe	NPA(DSO)	012-845 6470	atmngwenwe@npa.gov.za	
NVE Ngidi	NPA(DSO)	012-845 6401	nvenngidi@npa.gov.za	
		<b>PRINCIPALS</b>		
Adv Vusi Pikoli	NPA(NDPP P)	012-845 6758		
Kalyani Pillay	NPA	012-845 6749		
Loyiso Jafta	Presidency	012-300 5458		
M Simelane	DG justice	012-315 1730		
ME Manzani	NIA			

*[Handwritten signature]*

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MSM3C

MINUTES OF TRC COMMITTEE MEETING 12 October 2006Members Present:

- |                          |                  |
|--------------------------|------------------|
| 1. Adv Vusi Pikoli       | (NPA)            |
| 2. Adv Kalyani Pillay    | (NPA)            |
| 3. Mr ME Manzini         | (NIA)            |
| 4. Mr Loyiso Jafta       | (PRESIDENCY)     |
| 5. Mr Simelane           | (DG JUSTICE)     |
| 6. Dr Ramaite            | (NPA & Convenor) |
| 7. Adv Anton Ackermann   | (NPA)            |
| 8. Comm. Philip Jacobs   | (SAPS)           |
| 9. Mr Brian Koopedi      | (NIA)            |
| 10. Mr NVE Ngidi         | (DSO)            |
| 11. Mr AT Ngwengwe       | (DSO)            |
| 12. Ms Yvonne Mabule     | (NIA)            |
| 13. Ms Marlyn Raswiswi   | (JUSTICE)        |
| 14. Mr Josias Lekalakala | (SAPS)           |
| 15. Mthunzi Mhaga        | (NPA)            |

Apologies : none— National Commissioner.

1. Opening Remarks by the NDPP who gave a detailed background of the cases emanating from the conflict of the past with particular reference to TRC matters. He indicated that the establishment of the committee is derived from the policy guidelines which were approved by parliament in December 2005 on prosecution of all TRC matters. The NDPP had attended a meeting with DGs from SAPS, NIA, justice and a representative from the office of the Presidency where it was decided that a committee should be established. Cases in possession of PCLU and SAPS have to be identified and an update on their status is also required. SAPS has to provide investigating officers for all cases identified for prosecution. The NDPP emphasised the fact that he will decide on each prosecution and not the committee. The role of the committee will be to make recommendations to the NDPP on each case.
2. Mr Manzini indicated that these cases need to be prioritised and the process needs to be fast tracked.
3. Dr Ramaite indicated that there is a need for a task team of investigators to work on these cases.
4. The NDPP further indicated that Dr Ramaite is the convenor for the committee and the PCLU will report to Dr Ramaite directly.

Ms. S. [Signature]

The meeting was then closed after the NDPP asked the committee to meet after the meeting with the Principals.

Committee Meeting

Dr Ramaite requested PCLU and SAPS to compile an audit report of all cases in their possession and that the PCLU will take charge of investigations being assisted by SAPS. The committee will then deal with all cases including matters that have been closed by the PCLU. Mr Ngidi indicated that committee members will not be rubber stamper to decisions already made by the PCLU and he was supported by Mr Koopedi who said they are prepared to go through volumes of records in all cases.

Mthunzi was then mandated to arrange a suitable date for the next meeting. Indeed a date was arranged for the 25/10/2006 at the DSO boardroom.

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mjm30

**Helena H. Zwart**

**From:** Helena H. Zwart  
**Sent:** Thursday, June 05, 2008 1:20 PM  
**To:** Silas Ramaite  
**Subject:** TRC Task Team

Dear Dr Ramaite

Attached please find a memo from Adv Ackermann, addressed to yourself.

Regards

Helena

5/5/2008



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/Z56 forms

Office of the Head  
Priority Crimes Litigation Unit  
VGM Building  
PRETORIA

P. O. Box 752,  
PRETORIA  
0001

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**INTERNAL MEMORANDUM**

---

VGM Building  
Hartley St.  
Weavind Park  
0001  
Pretoria  
South Africa

**TO:** DR MS RAMAITE SC  
DEPUTY NATIONAL DIRECTOR OF PUBLIC  
PROSECUTIONS

**FROM:** ADV AR ACKERMAN SC  
SPECIAL DIRECTOR OF PUBLIC PROSECUTIONS  
AND HEAD: PCLU

**SUBJECT:** TRC TASK TEAM

**DATE:** 5 JUNE 2008

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5. That the prosecutors will not perform functions which will usurp the duties of SAPS and NIA;

Tel: (012) 845 6431

Cell: 082 498 6033

6. That the PCLU, as contemplated by the Guidelines, will be responsible for the operational management of TRC matters under your supervision and that of the NDPP.

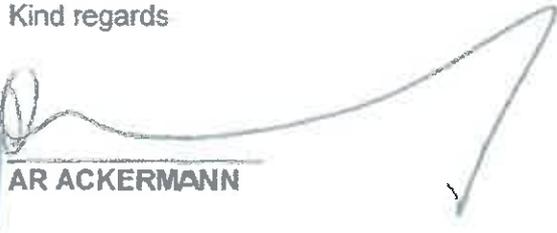
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Our *prima facie* views are that the Court would not grant another postponement and in any event, this would not be acceptable to the victims. The review is only for the benefit of the accused and one option would be to proceed with the prosecution. We however believe that a judge is highly unlikely to order a trial when the accused has the opportunity of receiving amnesty and is in no way to blame for the failure to have the review process finalized. We would also have to establish whether the matter is in fact at this stage ready for trial, since the witnesses were last consulted almost five years ago. The Court may require or we would be obliged to call someone senior from the DoJ&CD to testify under oath as to the reasons for the delay with the review. We see both the NPA and the DoJ&CD being criticized severely by the victims and the media.

Kind regards



AR ACKERMANN

TRC File

MJM3E

IZ56 forms

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## INTERNAL MEMORANDUM

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**TO:** ADV MJ MPSHE SC  
ACTING NATIONAL DIRECTOR OF PUBLIC  
PROSECUTIONS

**FROM:** ADV RC MACADAM  
DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS  
AND DEPUTY HEAD: PCLU

**SUBJECT:** TRC CASES

**DATE:** 9 JUNE 2008

Dear Adv Mpshe

The NPA Annual Plan required of the PCLU that it formulate an action plan whereby TRC cases would be promptly and effectively disposed of. More specifically, I was appointed to manage this plan.

As a consequence thereof, Adv Ackermann SC and I met firstly with Adv Mzinyathi SC and thereafter with Dr Ramaite SC. Dr Ramaite SC agreed that I should attend the Task Team meetings as well as any strategic discussions involving himself and you. I also recommended that Dr Bukau be involved so as to assist Adv Mhaga on an operational level.

Dr Ramaite SC is not available for the remainder of the month. There is however one matter which requires urgent attention, namely the *Pebco 3* prosecution. The accused in this matter appeared on indictment in the Port Elizabeth High Court in 2004. On every occasion that the matter has been in court, it has been postponed so as to enable the review of the refusal of the amnesty to be heard by the full bench of the TPD. Last year, the

matter was postponed as a final date to 5 August 2008. The responsibility for arranging the review lies with the DoJ&CD.

To date, no date for the hearing has been fixed, although Adv Ackermann SC and I were given the assurance that this would be either early or mid- 2008. Obviously, the Judge President would not be able to convene a full bench to hear the review between now and 5 August 2008. It would be enormously damaging for the Pebco 3 matter to be struck from the roll due to a failure on the part of a State department. In my view, the only way in which a postponement can be obtained is if a date for the review is set for the third or fourth quarter of this year's court sessions.

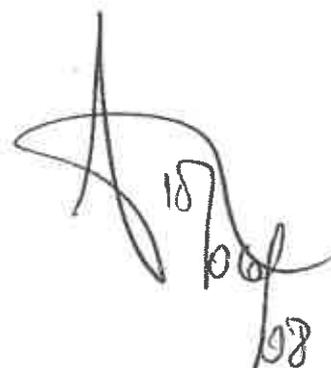
Although I intend taking up the matter with Tessie Bezuidenhout as a matter of urgency, I would recommend that you contact the Director General: DoJ&CD and request him also to ensure that the matter is expedited.

Another matter which requires attention is the status of the criminal investigation. As I recall, the matter was brought to court as a DSO investigation, but the investigators have now resigned. Consideration will have to be given to either appointing new investigators or to the matter being referred to SAPS. The reason why this is important is that the State may be required to demonstrate that it is ready to proceed with the prosecution on 5 August 2008.

Kind regards

---

RC MACADAM

Noted  
  
18/08/08

MJM4

**Helena Zwart (H)**

---

**From:** Helena H. Zwart  
**Sent:** 09 July 2008 04:41 PM  
**To:** Anton R. Ackerman  
**Subject:** TRC work  
**Importance:** High

Dear Anton

While I am out the office next week, I recommend that you oversee the following work on TRC matters:

1. Pebco 3:

- 1.1 Tessie Bezuidenhout promised to come to the office so that an affidavit can be compiled confirming the fact that the record of the review had been filed with the High Court and giving reasons for the fact that this was not done already. She must be contacted and arrangements made for the affidavit to be compiled.
- 1.2 Adv Bukau was given a copy of my letter to Koole's attorney, placing certain facts on record and confirming that it was in his client's best interests that the matter be postponed. She should contact him and obtain a written confirmation.
- 1.3 Jan Wagener undertook to furnish an updated medical report in respect of Van Zyl, confirming that he is not fit to appear in court and also indicating that the matter should be postponed pending the review. I did not have time this week to meet again with him. However, one of the advocates should meet with him and resolve these issues. He has a spare copy of the CD which should be collected from his office.
- 1.4 Marion is meeting with the victims in PE from 20 – 22 July 2008. I have asked him to contact Madeleine to get the details of the victims support group which the Minister appointed to work with the families and that he should liaise with them in his contact with the families. I had also raised the desirability of Adv Mhaga being present in PE at the same time to meet with the families and explain the reasons for the further postponement of the matter.
- 1.5 It must also be established by Marion whether Venter and Mogai are still available and confirm their statements.
- 1.6 Consideration must be given to whether it is necessary for Marion to also submit an affidavit for use at the Court hearing. This would be to confirm that the witnesses, upon whose strength the prosecution was instituted, are still available.
- 1.7 Christo Nel indicated that the matter will be heard before either Jansen J or Liebenberg J and that he did not foresee that there would be any objection to a postponement. According to Jan Wagener, the earliest date for the review would be November 2008. It is likely that judgment would be reserved and probably only handed down in February 2009. Further, according to him, the party losing the review would definitely appeal to the SCA. It is therefore desirable that the matter again be postponed to August 2009 so as to enable the appeal to be finalised.
- 1.8 Van Zyl never applied for amnesty for assault. Therefore, even if the review was decided in his favour, he would still face prosecution on the assault charge. Koole has not applied for a review and therefore, can still be prosecuted for kidnapping and assault. If all of the urgent matters have been addressed, then the advocates should be instructed to locate the missing evidence in the docket. Andrew Leask has indicated that a member of his staff can download the data on "Eagle I". I have given Adv Bukau Leask's email, containing her contact details. Wagener's disk should also be perused. It would appear that Piet Jonker at one stage made material available for the purpose of compiling the record of the review. Arrangements should be made with Tessie Bezuidenhout for one of the advocates to review the documentary evidence which forms part of the review since certain of the missing portions of the docket could be filed there. A comprehensive memo should be compiled, setting out in a systematic

manner all further investigations necessary should the matter go to trial. The arrangement with the DSO as far as Marion is concerned is merely to confirm the availability of the witnesses upon whose evidence the decision to prosecute is taken. A new investigating officer would have to be appointed, so the instruction would have to be written in such a manner that a newcomer would be able to identify what is required. An executive summary of all the evidence should be compiled.

1.9 The evidence given by the State witnesses should be perused to establish whether there are any contradictions between such evidence and their statements in the docket. Any such contradictions should be described in detail and an opinion expressed as to whether they are fatal as far as the witnesses' credibility is concerned.

2. Anton Lubowski

2.1 Late last year, Mrs Lubowski requested her husband's murder to be reinvestigated and alleged that an explanation should be provided why Torie Pretorius and Neels de Lange did not follow up evidence which her attorneys had provided earlier to them.

2.2 Adv Mhaga apparently had meetings with various people. He should compile a comprehensive report, describing in detail what was conveyed to him by them and what follow-up actions, if any, were undertaken by himself. He should also file any documents acquired by him and should submit a report, setting out the relevance of such documentation.

2.3 A convicted diamond smuggler, Courtney Clark, repeatedly phoned Helena, requiring an appointment with me to arrange *inter alia* the arrest of Torie Pretorius. He was informed that I could not speak to him as I was not authorised to gather intelligence. Peter Bishop of the DSO also contacted him and explained that any allegations would have to be made to an investigating officer and followed up according to police procedures. Today, his advocate phoned me and I advised her that if he had any information on the Lubowski matter, he should reduce it to writing and submit it to her. She should peruse it and submit it to the PCLU if she considers it relevant to the Lubowski matter. It was specifically explained to her that any allegations could only be followed up by SAPS. It was explained to her that only Namibia had jurisdiction for acts committed in that country and that consideration could only be given if evidence was presented of a conspiracy formulated in South Africa as a result of which Achesen committed the murder. I pointed out to her that to date, no such evidence has been forthcoming and she agreed that it was unlikely that there would be a breakthrough.

3. St James/Heidelberg Tavern

3.1 The documentary evidence relating to these matters in a box under the table next to the safe should be analysed and a comprehensive report compiled, identifying all aspects thereof that would be relevant to Mphahlele.

3.2 The amnesty hearings are on the Justice website. An advocate must be appointed to peruse the evidence of the applicants in order to establish to what extent they implicate Mphahlele in the attacks.

3.3 Most of his claims to have ordered the attacks were made to the media. A comprehensive memorandum, setting out the law relating to the admissibility of this evidence must be compiled. Particular attention must be paid to the fact that the media will claim privilege and how this claim can be dealt with.

3.4 A detailed memorandum outlining all further investigations must be compiled.

3.5 His book is also in the office and must be read in order to determine its relevance to the investigation.

4. Simelane matter

4.1 A detailed analysis of the evidence in the docket must be conducted, identifying problem areas including legal issues and all aspects requiring investigation.

- 4.2 The TRC evidence must be analysed in order to establish whether it materially contradicts the statements in the docket.
- 4.3 A detailed analysis must be made of Howard Varney's report and the merits of his points in favour of a prosecution carefully analysed.

Kind regards

Chris



**Helena Zwart (H)**

---

**From:** Helena H Zwart  
**Sent:** 01 October 2008 04:32 PM  
**To:** Anton R. Ackerman  
**Subject:** FW: Anton Lubowski

FYI

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**From:** Helena H. Zwart  
**Sent:** 01 October 2008 04:31 PM  
**To:** Silas Ramaite  
**Subject:** Anton Lubowski

Dear Silas

As you are aware, we forwarded a letter to Mrs Lubowski informing her that the allegations that her husband was murdered as a consequence of a conspiracy formulated in South Africa would have to be investigated by SAPS within the TRC Guidelines framework, but that this process cannot be taken forward until the Task Team reconvenes. In response, she has briefed an advocate to pursue legal options open to her to compel the NPA to act. I have had two lengthy conversations with the advocate, explaining to him the need for proper investigations to be conducted before any decision can be taken and pointing out to him the fact that executive direction is necessary before the Task Team can function. He will now take further instructions from the family, but obviously, we will be at a later stage again brought under pressure and may well face legal challenges which could place us in an embarrassing position.

My assessment of the matter is as follows:

1. There is no evidence of a conspiracy upon which a successful prosecution can be conducted.
2. Some considerable time ago, the D'Oliveira Investigation Unit obtained statements from the Namibian Police who investigated the deceased's murder and also obtained affidavits or conducted interviews with former SADF operatives and/or commanding officers. Various conflicting allegations were made by former CCB members, pointing to an involvement of the CCB with the murder of Lubowski. No proper attempt was made to reconcile these versions and more significantly, information obtained during interviews was never followed up by obtaining affidavits and corroboratory evidence. The upshot of all of this is to justify a suspicion that the deceased was in fact killed in pursuance of a CCB conspiracy, but one is left entirely in the dark as to where the conspiracy was formulated and who the conspirators were. It is common cause that prior to the change of Government in 1994, the former security forces destroyed all sensitive documentation.
3. In the light thereof, I believe that it is highly unlikely at this stage that evidence would emerge which would justify a successful prosecution. However, because we are dealing with a human rights abuse and our Constitution requires of us to conduct our business in a manner which upholds human rights, we are obliged to direct the police to follow up and obtain finality on these outstanding issues so that if we make a decision not to prosecute, we can justify this decision on the basis that there is no outstanding evidence.
4. Normally when we make a decision not to prosecute, we make all the evidence available to the family so that they can decide whether they do not want to obtain a certificate *nolle prosequi*. We might also face a request in terms of the Access to Information Act. Although I have said that the evidence is contradictory, it is highly sensational in that it implicates former generals and suggests that foreign assassins were paid out of State funds and that State structures were used to frustrate the Namibian investigations. This would obviously be sensational newspaper reporting. In my view, Government would have to be properly briefed on all these allegations before any release to the family, but it would only be appropriate for such a briefing to be given once all the outstanding investigations have been clarified.

2009/07/23

All of the above emphasises the need to have finality on these TRC matters and I recommend that you advise the Acting NDPP accordingly

Kind regards

Chris Macadam

2009/07/23

**Helena Zwart (H)**

---

**From:** Helena H. Zwart  
**Sent:** 10 December 2008 01:36 PM  
**To:** Silas Ramaite  
**Cc:** Anton R. Ackerman  
**Subject:** TRC matters  
**Importance:** High

Dear Silas

This serves to provide a recap of 2008's issues:

1. No fresh cases requiring investigation were reported after the Lubowski matter in December 2007.
2. The Ginwala Commission report did not make any findings which would justify holding the work on the TRC cases in obedience. The Ginwala report indicates that Government's complaints were confined to the Van der Merwe matter and that Government subsequently indicated that Government elected not to pursue their complaints. The Commission noted Adv Pikoll's statement that the Task Team was there to assist the NPA in making decisions.
3. The constitutional challenge to the Guidelines was argued on 24 November 2008, but judgment has been reserved.
4. As at November 2008, both SAPS and NIA indicated their willingness to again commence work on TRC matters. I recommended an in-house meeting with them prior to the close of business this year, but it would appear that it is impractical that this would take place before 2009.
5. The breakdown of individual cases is as follows:

5.1 ***S v Van Zyl & Koole*** (kidnapping/murder of the Pebco 3):

The accused were indicted in the Port Elizabeth High Court as early as 2004. Their case has now been postponed to late June 2009 for the High Court review of the refusal of amnesty in respect of Van Zyl. We assisted Justice in compiling the record of the review, which was lodged with the Pretoria High Court in July 2008. Van Zyl is seriously ill and may not be in a position to be prosecuted. His co-accused has not applied for a review of the refusal of amnesty and could still be prosecuted provided the two State witnesses are available.

5.2 ***Anton Lubowski Assassination***

This matter has attracted ongoing negative publicity throughout 2008, due to the fact that the complaint laid in December 2007 has not been investigated. The family have gone to the length of appointing counsel to represent them. I have had a number of communications with him. Although Lubowski was murdered in Namibia, a South African Court would have jurisdiction if he was killed in pursuance of a conspiracy formulated in South Africa. The right to prosecute any such conspiracy will prescribe in September 2009. The D'Oliveira Unit conducted an incomplete enquiry suggesting complicity of the CCB in the assassination. Although it would appear unlikely that evidence would be forthcoming to justify a prosecution, the outstanding issues must be investigated and the family given feedback prior to the prescription of the offence. In this regard, SAPS will be required to investigate.

5.3 ***The kidnapping and murder of the Cradock 4***

The victims are applicants in the constitutional challenge and have made a number of public statements concerning the fact that no prosecution has been instituted in this matter. At present, the only available evidence is a statement by De Kock to the effect that Van Zyl, the accused in the Pebco 3 matter, telephonically confessed to him that he was involved in this case and the fact that one of the amnesty applicants made a confession to the family prior to the amnesty hearing. SAPS must investigate these allegations to determine whether either of the two confessions could stand up in court. Another complicating factor is that in the event

2009/07/23

of a prosecution being instituted, the accused will apply for their refusal of amnesty to be taken on review.

#### **5.4 The kidnapping and disappearance of *Nokuthula Simelane***

The victims are also applicants in the constitutional challenge and have also appointed counsel to advance their case. Their counsel did call for a prosecution on a charge of kidnapping against a low ranking member of the Security Forces. Adv Mpshe has however authorised that a formal inquest be held so as to get the full picture of the person's disappearance and most likely, murder. SAPS must appoint an investigating officer to locate the witnesses who must testify at the inquest. No arrangements have been made to date for the holding of the inquest.

#### **5.5 The *Heidelberg Tavern and St James Church Massacres***

The father of one of the deceased and a parliamentarian representing other victims have called for the prosecution of the current leader of the PAC. He has not applied for amnesty, but has made a number of public statements to the effect that he ordered the two attacks. We have located the existing Court records relating to the matters, but SAPS will have to conduct a series of investigations.

#### **5.6 Warrant of arrest: *Philip Powell***

In 2008, Powell made representations via a local attorney for the cancellation of a warrant of arrest issued in respect of a possession of arms case going back to 1994. We compiled a memo for the Acting NDPP advising him to take this matter up with the Acting National Commissioner and Acting DG of NIA. We are not aware of what has transpired further in this matter. The background to this matter is the allegation that a large quantity of armaments, removed to KwaZulu-Natal, have not been recovered. In the light of the 2009 general elections, this must clearly raise an issue of national security and it is essential that this matter be dealt with prior to the elections.

#### **5.7 The *Samora Machel* air crash**

This matter has to date not been dealt with as a TRC matter, despite the fact that the TRC held a special hearing into the case and no one applied for amnesty. The former Minister for Safety & Security made a statement that SAPS was conducting a full investigation into the matter. The matter periodically surfaces in the media and also affects our country's relationship with Mozambique. Consideration should be given to whether this matter should not be incorporated into the TRC investigations.

#### **5.8 The murder of *Rick Turner***

This also has not been dealt with as a TRC matter. Dr Pretorius however received information regarding the possible whereabouts of the firearm used to assassinate Turner and his daughter has filed a request for access to information. It must also in respect of this matter be decided whether it should form part of the TRC cases.

#### **5.9 The compilation of a data base of TRC material**

This matter was not taken forward, because NIA required a hard copy inventory to be compiled prior to scanning onto an electronic data base. Subsequently, the Document Centre has substantially systematically written up the files and consequently, this matter can again be taken forward with NIA.

6. As can be seen from the above breakdown, the majority of matters can only be taken forward with the assistance of SAPS and NIA. There has been general public criticism of the fact that no progress has been made on the cases, aggravated by the fact that victims have in certain cases appointed lawyers and consequently, the prospect of litigation is real. In certain of the matters, there is also the risk of the offences prescribing before they can be decided on, which would also place the NPA in a very bad light. The fact that elections will take place in 2009, most likely in mid-April, must also be taken into consideration, because in the past, the TRC cases have featured prominently on the election agendas of the various political parties.

7. My recommendation is that, as a matter of urgency in 2009, when the parties are available, a meeting should be set up with the Acting NDPP, yourself and myself to obtain his approval on the way forward. As soon as the meeting with the Acting NDPP has taken place, efforts should be made to reconvene the Task Team so that work can commence.

Kind regards

Chris Macadam

2009/07/23

3/16/2

MSM7

MINISTRY OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT  
PRETORIA  
2009-03-17  
PRETORIA  
MINISTERIE VAN JUSTISIE EN  
STAATKUNDIGE ONTWIKKELING



DEPUTY MINISTRY FOR JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT  
PRETORIA  
2009-03-11  
PRETORIA  
DEPUTY MINISTRY FOR JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT

DEPARTMENT OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT  
PRIVATE BAG X81  
2009-03-05  
PRETORIA 0001  
OFFICE OF THE DIRECTOR-GENERAL

The National Prosecuting Authority of South Africa  
Igunya Jikelele Labetshutshisi Bo Mzansi Afrika  
Die Nasionale Vervolgingsgesag van Suid-Afrika

**MEMORANDUM**

**TO: MR ME SURTY, MP  
MINISTER OF JUSTICE & CONSTITUTIONAL  
DEVELOPMENT**

**FROM: ADV MJ MPSHE SC  
ACTING NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**

**SUBJECT: TRC TASK TEAM**

**DATE: 17 FEBRUARY 2009**

**1. PURPOSE OF MEMORANDUM**

The purpose of this memorandum is to inform the Minister of my intention to reconvene the TRC Task Team and to advise him of matters relating thereto.

**2. BACKGROUND**

2.1 The TRC Guidelines provide for the creation of a Task Team made up of representatives from SAPS, NIA and DoJ&CD to, within the scope of their mandates, assist the members of my office to evaluate the TRC material. In terms of the Guidelines, the duty to decide whether or not to prosecute lies with me.

2.2 Since 2007, the Task Team has not sat, due to the fact that matters relating to it were tabled before the Ginwala Commission. The effect thereof was that investigations into TRC matters could not continue.

- 2.3 The victims were dissatisfied with the lack of progress being made in their matters and in certain cases, appointed lawyers who declared the intention to institute legal proceedings against the NPA. Certain interventions from my office were necessary in urgent matters.
- 2.4 The Ginwala Commission did not make any findings which impact on the functioning of the Task Team and consequently, I have deemed it imperative to reconvene the Task Team so that work on the TRC cases can commence.

### 3. BRIEFING

- 3.1 Members of my office have met with the Divisional Commissioner of the Detective Service of SAPS and the Deputy Director General: Operational Support of NIA. Both agencies have indicated their willingness to again participate in the Task Team and to perform duties within their agencies' mandates.
- 3.2 After I have received feedback from you, I intend submitting written invitations to the relevant Directors General, inviting them to nominate staff members to form part of the Task Team and to arrange a date for the first meeting of the Task Team.
- 3.3 No requests to investigate TRC matters have been received since November 2007 and it is anticipated that once the matters on hand have been dealt with, that the chapter on these cases may be closed. In its report released in 1998, the TRC did in fact recommend that a time limit should be imposed on such prosecutions.
- 3.4 The following matters are on hand at present:

#### 3.4.1 ***S v Van Zyl & Ano***

The accused were indicted in the Port Elizabeth High Court as early as 2004. Their case has now been postponed to late June 2009 for the High Court review of the refusal of amnesty in respect of Van Zyl.

#### 3.4.2 ***Anton Lubowski Assassination***

Although the deceased was murdered in Namibia, the family have requested the NPA to investigate the possibility of the murder being committed in pursuance of a conspiracy formulated in South Africa. Because the enquiry is limited to

a conspiracy charge, this offence will prescribe in September 2009.

#### **3.4.3 The kidnapping and murder of the *Cradock 4***

The victims are co-applicants in the application to have the TRC Guidelines declared unconstitutional. The case was the subject of an inquest presided over by the Judge President of the Eastern Cape Division of the High Court and amnesty was refused in respect of the Security Branch members who came forward, admitting complicity in the murder.

#### **3.4.4 The kidnapping and disappearance of *Nokuthula Simelane***

The victim disappeared in 1983 and no evidence has come forward regarding her suspected murder, nor have her remains been recovered. Some information relating to her kidnapping and torture was obtained by the TRC. I have decided in this matter that it would be most appropriate to hold a formal inquest.

#### **3.4.5 The *Heidelberg Tavern and St James Church Massacres***

The current Head of the PAC has claimed responsibility for ordering these attacks. He has never applied for amnesty and victims have called for his prosecution.

#### **3.4.6 Warrant of arrest: *Philip Powell***

This relates to a receipt of a substantial quantity of armaments by Philip Powell from former Viakplaas Commander de Kock. Powell has made representations that a warrant for his arrest be cancelled. The TRC granted amnesty to De Kock and others in connection with the matter and made findings against Powell.

#### **3.4.7 The *Samora Machel* air crash**

This matter has to date not been dealt with as a TRC matter, despite the fact that the TRC held a special hearing into the case and no one applied for amnesty. The former Minister for Safety & Security made a statement that SAPS was conducting a full investigation into the matter. The matter periodically surfaces in the media and also affects our country's relationship with Mozambique. In order to enable

this matter to be effectively investigated, I have decided that this matter must now be dealt with by the Task Team.

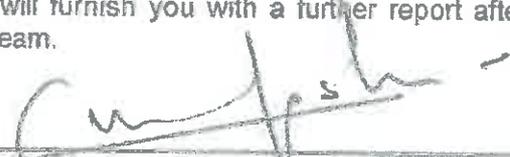
#### 3.4.8 The murder of Rick Turner

Information has been received regarding the firearm which was used in the killing. This information must be followed up by SAPS.

#### 3.4.9 Allegations against Security Branch member, General Basie Smit

When Vlok and others pleaded guilty to the poisoning of Rev Chikane, they implicated General Smit as being involved in the plot. He never applied for amnesty and was not prepared to plead guilty. A case against him based on these allegations has been investigated.

4. All of the above matters, except for the Pebco 3 case, require investigations by SAPS before I can make a decision whether there are sufficient grounds to institute prosecutions or not.
5. Although the Pretoria High Court has declared the Guidelines unconstitutional and an appeal has been noted, there is no reason why the investigations cannot proceed in the interim.
6. Given the unique circumstances surrounding TRC cases, NIA has been requested to compile a threat analysis of the risks attached to such investigations. I will forward the analysis to you upon receipt thereof so that you can brief the affected Ministries.
7. I will furnish you with a further report after the first meeting of the Task Team.

  
 \_\_\_\_\_  
 ADV M. N. S. H. S. C.  
 ACTING NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS  
 DATE: 03.03.09.

NOTED

  
 \_\_\_\_\_  
 ADV M. SIMELANE

DG: DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT  
 DATE:

*It may be useful that the Minister first discuss these matters with the JMC Ministers so that the acting NDPP can be advised how to proceed especially on what the mandate of the NPA is on these matters if at all.*

I can't find fault with the approach proposed. In fact, in law, NOPP must proceed with prosecutions or not (if requested). To ensure this does not take place in isolation, the Task Team was established, as part of remedial policy. As this is a sensitive matter, I agree with recent consultations with NEC + Resident

12/3/9  
ADV J DE LANGE  
DEPUTY MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT  
DATE:

✓  
NOTED

~~\_\_\_\_\_~~  
MR ME SURTY, MP  
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
DATE: 2009-07-29

Support Aulis view  
investigations must proceed!  
However, matters can be raised in IMC meeting.



**IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE DIVISION, MAKHANDA)**

**Case No.: CC66/2024**

In re: Inquest into the Highgate Hotel attack and the deaths of-

1. STANLEY HACKING
2. DOUGLAS WILLIAM GATES
3. ROYCE MICHAEL WHEELER
4. DEON WAYNE HARRIS
5. DERIC JOHN WHITFIELD

(1)	REPORTABLE: <input checked="" type="checkbox"/> YES / NO
(2)	OF INTEREST TO OTHER JUDGES: <input checked="" type="checkbox"/> YES / NO
(3)	REVISED.
28 November 2025	
DATE	SIGNATURE

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**JUDGMENT**

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**POTGIETER J**

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## **INTRODUCTION**

[1] On 1 May 1993, at approximately 22h00, unidentified gunmen armed with automatic rifles launched a deadly attack on the unsuspecting patrons who, at the time, were frequenting the Highgate Hotel situated at 2 Voortrekker Road, Cambridge, East London, Eastern Cape. Five people were killed, and several others were wounded during the incident.

[2] The present proceedings in terms of the Inquests Act, 58 of 1959 ('the Act'), are a belated sequel to that occurrence. It is not entirely clear why it took more than three decades for these proceedings to materialise. There can be no doubt that this must have added significantly to the anguish and trauma of the affected parties. It is a blight on the efforts of the country to come to terms with its disgraceful past that this matter was seemingly allowed to simply linger for far too long. It is neither helpful nor constructive to compare the history of this matter to investigations of similar incidents that also occurred during the past political conflict, but suffice it to say that it is difficult to ignore the impression that this matter was previously treated with indifference. In some material respects, the police investigation was substandard, and after such a significant time lapse, relevant records, information, and exhibits have become untraceable or are no longer available. Nonetheless, the patent gratitude of the affected parties that the matter has finally received the necessary attention stands as a testament to their admirable magnanimity and generosity of spirit.

## **CONTEXT OF THE ATTACK**

[3] During the period relevant to these proceedings, South Africa was emerging from almost 5 decades of oppressive and racially discriminatory Apartheid rule and was well on its way to becoming a constitutional democracy. The Interim Constitution, Act 200 of 1993, which provides for an entrenched Bill of Rights, was drafted between May and November 1993 and assented to on 27 January 1994. It commenced on 27 April 1994

and governed South Africa's first democratic non-racial elections. It was replaced by the final Constitution, Act 108 of 1996, on 4 February 1997.

[4] By May 1993, the country was in a state of transition and intense political conflict. The assassination of Mr Chris Hani on 10 April 1993 sparked widespread and escalating violence and demonstrations across the country, causing a climate of increasing political instability and volatility, with the potential of the country descending into a spiral of chaos. There was growing resistance to the inevitable political change from the right-wing groups, and there was a third force at work coordinating deadly attacks and fomenting so-called 'black on black' violence, particularly involving supporters of the African National Congress ('ANC') and the Inkatha Freedom Party ('IFP'). By way of illustration, townships in the then Pretoria, Witwatersrand and Vereeniging ('PWV') Area, such as Boipatong and Thokoza, were sites of intense conflict and deadly violence, leaving scores of people dead and rendering the affected areas effectively ungovernable. Deadly clashes took place in Thokoza between ANC and IFP supporters on 22 May 1993, leading to at least nine deaths and 69 injuries, the vast majority among the non-IFP group, according to the Truth & Reconciliation Commission ('TRC') final report. The incident reportedly resulted from a march by ANC supporters from the Thokoza Stadium to the Alberton police station to present a memorandum. The violence erupted when the marchers reached the Thokoza hostel compounds (housing mainly IFP supporters). Armed IFP supporters were present outside the hostel, and both sides engaged in shooting. Afterwards, both sides gave conflicting accounts of the incident. The ANC claimed police shot at marchers, while the IFP hostel-dwellers stated that the police fired tear gas at them. I should add that both accounts are in keeping with the fact that some state actors instigated so-called 'black on black' violence at the time.

[5] The purpose of those who were behind these incidents was to derail the negotiations to end Apartheid rule. The country was on the proverbial knife-edge. A coalition of 21 right-wing parties, the Afrikaner National Front, was founded in May 1993, signalling increased resistance to the political negotiations. This era was probably the bloodiest in the history of the liberation struggle. It was only steadfast, insightful, and committed

political leadership that had managed to keep the country on the right course to a political settlement and transition to a constitutional democracy.

[6] The Highgate attack was undoubtedly a false flag operation. The perpetrators clearly intended to pass the incident off as a racially inspired armed attack on defenceless white citizens by the Azanian People's Liberation Army ('APLA'), the military wing of the Pan Africanist Congress ('PAC'), likely to fuel inter-racial conflict and undermine a political settlement. That false impression has been debunked and rebutted in the present proceedings, as more fully appears from the summary of the evidence that accompanies this judgment as Annexure 'A'. I should point out that the then commander of APLA, Mr Letlapa Mphahlele, testified and effectively refuted the view that APLA was responsible for the attack or that the telephone call a few days later to the Citizen Newspaper by a Mr Karl Zimbiri claiming responsibility for the attack on behalf of APLA, was genuine. I will return to this issue later in the judgment.

[7] Ironically, the 1993 Nobel Peace Prize was shared by the South African political leaders, Mr Nelson Mandela and Mr FW de Klerk, as it was stated 'for their work for the peaceful termination of the apartheid regime, and for laying the foundations for a new Democratic South Africa'.

### **BRIEF OVERVIEW OF THE INCIDENT**

[8] The incident occurred on a Saturday evening at a time when the hotel was busy. There were patrons in all the bars, namely the Public/Men's Bar, the Ladies Bar, and the Open Arms Bar. The attack started around 22:05, reportedly in the Public Bar, when a gunman entered through the door armed with an automatic rifle (confirmed to have been an AK-47) and started firing indiscriminately at the patrons, spraying them with bullets. A hand grenade and a teargas canister were also detonated in the bar. Another gunman entered the Ladies Bar and fired at the patrons, also with an AK-47. One of the patrons, Mr Edward Beyman Lombard, returned fire from the direction of the bar counter with a .38 Special Rossi revolver. Mr Lombard testified that he is a reasonable shot and he is convinced that

he struck the attacker on the body with a few rounds. He expressed the view that the attacker must have been wearing body armour because the bullets did not affect him.

[9] The attackers intended to cause maximum harm and loss of life. According to the relevant ballistics report, exhibit 'N', fifty-six 7.62 x 39mm (assault rifle) calibre spent cartridges were recovered at the scene. Nineteen were fired from one rifle and twenty-eight from a second rifle. Seventeen 7.62 x 39mm calibre discharged bullet points were recovered. Four were fired from one rifle and six from the second. One bullet was recovered from the leg of a survivor, Mr Karl Webber, who was shot in the Ladies Bar. It came from the second rifle.

[10] Nine .38 Special spent cartridges, all fired from the same revolver, were recovered at the scene. One discharged .38/.357 calibre bullet point was also found in the door frame at the hotel entrance, which was fired from the position occupied by Mr Lombard.

[11] Various bullet holes were found. Seven in the foyer leading to the Ladies and Open Arms Bars, which were fired from the hotel entrance. One was fired through the wooden panel of the door of the Open Arms Bar. Seven more resulted from shots fired inside the bar from the direction of the door. Three holes towards the back of the bar were caused by gunfire from a direction consistent with the position of Mr Lombard. Thirty holes were found in the Public Bar, mostly through the bar counter, caused by gunfire from the direction of the bar door.

[12] A teargas grenade was detonated inside the Public Bar. A hand grenade was lobbed over the counter and landed in the adjacent pool room, where it exploded and damaged the wall. The explosives expert, Mr Charl Naude, in his report exhibit 'O', had regard to the used teargas canister and the fly-off levers of the strike (igniting) mechanisms of both devices that were found afterwards inside the bar. He identified the teargas canister as a hand smoke/anti-riot grenade deployed to emit teargas. These grenades were manufactured at the Swartklip Products factory in Mitchells Plain, Cape Town, and were primarily supplied to the police and the defence force, as well as to the TBVC States

(Transkei, Bophuthatswana, Venda, and Ciskei). He identified the type of hand grenade by means of the fly-off lever and the damage which resulted when it exploded, causing a typical crater associated with high-explosive hand grenades. He concluded that it was an RPG-5 anti-personnel fragmentation grenade. These were manufactured either in China, the Soviet Union, or other Eastern Bloc countries and were never procured by the South African Defence Force.

[13] Mr Deric Whitfield, one of the patrons who was shot in the Public Bar, managed to crawl to the front parking area, where he later succumbed. Four patrons were shot and killed in the Ladies Bar: Mr Douglas William Gates, Mr Stanley Hacking, Mr Deon Wayne Harris, and Mr Dave Royce Michael Wheeler. In addition, a total of 7 people were injured in the attack.

[14] Eyewitnesses testified that the attackers were wearing balaclavas. There was an indication that they had black cream on their faces, and one attacker was wearing police issue boots.

[15] After the attack, the perpetrators nonchalantly left the scene. They were apparently in no hurry to get away and seemingly had no fear of being arrested. Two of them were seen by a witness, Ms Broderick, who lived close to the hotel as they were moving on Voortrekker Road, which runs past the hotel. One assailant had a rifle openly slung over his shoulder.

[16] Security forces and emergency services arrived at the hotel shortly after the incident and took control of the crime scene.

### **NATURE OF THE PROCEEDINGS**

[17] An inquest is a judicial investigation into a death not due to natural causes, where no resultant criminal proceedings are instituted. Section 5<sup>1</sup> of the Act requires, in such a

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<sup>1</sup> The section provides as follows:

case, that the prosecuting authority submit the relevant documentation to the magistrate of the district where the incident occurred, who is in turn obliged to ensure that an inquest is held into the incident and that the documentation is provided to the judicial officer who is to hold the inquest.

[18] Section 6<sup>2</sup> authorises the Minister of Justice to request the relevant judge president to designate a judge to hold an inquest at any place determined by the judge. I should add that this procedure was followed in the present matter, where I determined that the proceedings would be held at the Special Investigating Tribunal premises in East London, mainly for the convenience of the victims, the next-of-kin of the deceased, and the other affected parties.

[19] At the commencement of the proceedings, I granted an order in terms of section 6A<sup>3</sup>, that a joint inquest be held into the deaths of all 5 deceased. The matter then proceeded on that basis and was held in public. Attorneys and counsel represented some of the victims and affected families. The Director of Public Prosecutions was represented by a team of 6 counsel.

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#### **5 When inquest to be held**

- (1) If criminal proceedings are not instituted in connection with the death, or alleged death, the public prosecutor referred to in section 4 shall submit those statements, documents and information submitted to him to the magistrate of the district concerned.
- (2) If on the information submitted to him in terms of subsection (1) it appears to the magistrate that a death has occurred and that such death was not due to natural causes, he shall, subject to the directions of the Minister, take such steps as may be necessary to ensure that an inquest as to the circumstances and cause of death is held by a judicial officer in terms of section 6 ...

<sup>2</sup> The section is to the following effect:

#### **6 Judicial officer who is to hold inquest**

An inquest shall be held –

...

- (d) where the Minister has so requested a judge president of a provincial division of the Supreme Court, by any judge of the Supreme Court of South Africa designated by the judge president concerned, and notwithstanding anything to the contrary in any law contained, such inquest may be held at any place from time to time determined by such judge.

<sup>3</sup> The section provides in relevant part that:

#### **6A Multiple deaths which are connected**

- (1) Where more than one death has occurred, the attorney-general or the public prosecutor within whose area of jurisdiction the incident is alleged to have occurred may request the judicial officer who is to hold an inquest to hold a joint inquest into the deaths of the persons involved.
- (2) After the hearing of the request referred to in subsection (1) the judicial officer may order that a joint inquest shall be held if he is of the opinion that the deaths concerned are connected.

[20] The object of the Act is 'in the interest of the public and for the administration of justice, to conduct an official investigation into and to obtain a finding by a judicial officer on whether or not the death of a person who has died from other than natural causes was caused by an act or omission which includes or amounts to an offence by anybody.'<sup>4</sup>. Section 16(2) of the Act requires the court to record findings as to the identity of the deceased, the cause or likely cause of death, the date of death, and whether the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person.

[21] The courts have frequently commented on the purpose of an inquest. The Appellate Division stated in *Tiley*<sup>5</sup>:

The function of an inquest is to determine the identity of the deceased person; the cause or likely cause of death; the date of death; and whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person ... The underlying purpose of an inquest is to promote public confidence and satisfaction; to reassure the public that all deaths from unnatural causes will receive proper attention and investigation so that, where necessary, appropriate measures can be taken to prevent similar occurrences, and so that persons responsible for such deaths may, as far as possible, be brought to justice.

[22] The court in *Tiley*<sup>6</sup> further referred with approval to the following dicta in *Timol*<sup>7</sup>:

[F]or the administration of justice to be complete and to instill confidence, it is necessary that, amongst other things, there should be an official investigation in every case where a person has died of unnatural causes, and the result of such investigation should be made known. Therefore, the Inquests Act provides that, if there is reason to believe that a death has occurred, that such death was not due to natural causes and that it was not followed by the institution of criminal proceedings, there shall be an inquest as to the circumstances of the death.

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<sup>4</sup> LAWSA Vol 20(2) para 251.

<sup>5</sup> *Marais NO v Tiley* 1990(2) SA 899(A) at 901E-G.

<sup>6</sup> At 901G-J.

<sup>7</sup> *Timol & Another v Magistrate, Johannesburg & Another* 1972(2) SA 281 (T) at 287H-288A and 292A-B.

...

[T]he inquest must be so thorough that the public and the interested parties are satisfied that there has been a full and fair investigation into the circumstances of the death.

[23] In *De'Ath*<sup>8</sup> the court referred to the historical position regarding inquests:

The predecessors of the Act show clearly that the purpose of all inquests is to investigate whether, when someone has died or is suspected of having died otherwise than of natural causes, his death has been the result of a criminal offence, and, if so, who the offender is. An inquest is not aimed at proving anyone's guilt, but is most certainly aimed at ensuring that, if possible, where guilt exists, it will not remain hidden.

[24] The court in *Padi*<sup>9</sup> referred to the following statement in an academic article emphasising the public importance of inquests, which are particularly pertinent to the present matter:

By statute, the inquest serves to ascertain the identity of the deceased, cause of death, date of death, and whether or not the death was brought about by any act or omission involving an offence on the part of any person. Where sufficient evidence is brought to light, the inquest yields to a criminal prosecution.

An inquest's most important function is not this simple determination of facts, however. Public satisfaction is its *raison d'être*; to reassure the public that every possible step will be taken to prevent similar deaths in the future; preserve, where pertinent, the integrity of the State by refuting all allegations of official misconduct, malfeasance, or negligence; and where the State's, an agency's or person(s)'s culpability is substantiated, bringing forth criminal indictments, remedial measures and policy changes necessary to quickly restore confidence in the central authority.<sup>10</sup>

<sup>8</sup> *De'Ath (substituted by Tiley) v Additional Magistrate, Cape Town* 1988(4) SA 769 (C) at 775G; cf *In re: Goniwe & Others (Inquest)* 1994(3) SA 877 (SE) at 878A-E (*Goniwe*).

<sup>9</sup> *Padi & Another v Botha NO & Another* 1996(3) SA 732 (W) at 740J - 741B.

<sup>10</sup> DJ Akerson *An Inquest – Law Inquest* (1989) 5 SAJHR 209.

[25] The importance of properly investigating deaths is explained as follows in *Van Heerden*<sup>11</sup>:

The State has an interest in the proper investigation of deaths due to other than natural causes. Even if nobody can be held responsible for a death in a particular case, it may still remain pertinent to determine the circumstances and cause of death in order that appropriate measures can be taken to prevent similar occurrences.

[26] As indicated, the Act obliges the judicial officer to make findings as to the identity of the deceased, the cause or likely cause of death, the date of death, and whether *prima facie* the death resulted from an offence committed by any person<sup>12</sup>. Where it is not possible to make any one of such findings, this fact must be recorded by the judicial officer.<sup>13</sup>

[27] The courts have adopted differing approaches to the standard of proof applicable to findings under section 16(2) of the Act. Section 16(2)(d) was amended by Act 45 of 1990, which introduced the term '*prima facie*' in relation to the cause of the death under investigation. Pursuant to the amendment, the court is required to make a finding whether the death was caused by conduct which *prima facie* amounts to or involves an offence.

[28] Commenting on the previous version of section 16(2)(d), ie, excluding the words '*prima facie*', the court pointed out in *Claassen*<sup>14</sup> that the subsection does not indicate what standard of proof should be applied. The court thus accepted that in the absence of

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<sup>11</sup> *Van Heerden & Another v Joubert NO & Others* 1994(4) SA 793 (A) at 795D.

<sup>12</sup> Section 16(2) provides that:

**16 Finding**

...

- (2) The judicial officer holding an inquest shall record a finding upon the inquest –
- (a) as to the identity of the deceased person;
  - (b) as to the cause or likely cause of death;
  - (c) as to the date of death;
  - (d) as to whether the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person.

<sup>13</sup> Section 16(3) provides that:

- (3) If the judicial officer is unable to record any such finding, he shall record that fact.

<sup>14</sup> *Claassen v Landdros, Bloemfontein* 1964(4) SA 4 (O) at 11C.

any other obvious standard, the judicial officer was required to decide on a balance of probabilities.<sup>15</sup> The test envisioned by the Legislature was accordingly unclear.

[29] The court in *Webster*<sup>16</sup> dealt with the interpretation of the amended subsection and concluded that the test to be applied is the criminal standard, namely, proof beyond a reasonable doubt. The court further held that the words '*prima facie*' were introduced in the subsection merely to show that inquest findings are not final and binding determinations immediately affecting the legal rights and obligations of the affected parties. The latter remains to be determined in subsequent civil or criminal proceedings.

[30] The court in *Goniwe* differed from the decision in *Webster*, indicating that when the amendment was introduced, it was already known that inquest findings are not finally determinative of any legal rights or obligations. No amendment was accordingly necessary to clarify this fact. The decision in *Claassen* shows that the test to be applied was not clear. This was the mischief that the amendment sought to address; it was not to clarify a well-established position. The court indicated that:

The section, as I read it, now provides that the presiding officer must record a finding in terms of s 16(2)(d) if, in his opinion, the evidence establishes *prima facie* that an offence causing the death of the deceased has been committed by any person. This conclusion is, in my view, supported by the fact that s 16(1) of the Act specifically requires proof beyond a reasonable doubt for a positive finding that a death has occurred in a case where no body is found. When s 16(2)(d) was amended the Legislature, in my opinion, provided for a different standard of proof.<sup>17</sup>

[31] The court continued to consider the exact meaning of the words *prima facie* in this context. It rejected the contention that the applicable test is that applied in a discharge

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<sup>15</sup> It is stated as follows in the original text: 'Art. 16(2)(d) dui nie aan watter maatstaf eerste verweerder moes gebruik het om tot n bevinding te geraak nie. Vir doeleindes van hierdie uitspraak sal dit aanvaar word – aangesien daar geen ander voor die hand liggende maatstaf is nie – dat eerste verweerder geroepe was om op n oorwig van waarskynlikhede te beslis.'

<sup>16</sup> *Inquest into the Death of Dr David Joseph Webster* Unreported WLD judgment by Stegmann J dated 22/1/1993 referred to, but not followed in *Goniwe* (supra note 8) at 879A–F.

<sup>17</sup> At 879 E – F.

application in a criminal trial or for absolution from the instance in a civil trial and pointed out that it is problematic to apply a test applicable to adversarial proceedings in inquisitorial proceedings, such as an inquest. The court went on to say that:<sup>18</sup>

In deciding whether a *prima facie* case has been established some regard must, in my opinion, be had to the reliability and credibility of witnesses if they had given evidence at the inquest. The fact that evidence has been produced which, if accepted, would prove that some person has committed an offence which brought about the deceased's death will, in my opinion, not be sufficient to justify a positive finding if it is obvious to the officer presiding at the inquest that there is no prospect of such evidence being believed at a subsequent criminal trial.

[32] Insofar as the applicable standard of proof is concerned, the court stated that:<sup>19</sup>

Bearing in mind the object of an inquest it is my opinion that the test to be applied is not the 'beyond reasonable doubt' test but something less stringent. In my opinion, the test envisaged by the Inquests Act is whether the judicial officer holding the inquest is of the opinion that there is evidence available which may at a subsequent criminal trial be held to be credible and acceptable and which, if accepted, could prove that the death of the deceased was brought about by any act or omission which involves or amounts to the commission of a criminal offence on the part of some person or persons.

[33] In the matter of *Padi*,<sup>20</sup> the court considered the above-mentioned conclusions in the matters of *Webster* and *Goniwe* concerning the standard of proof applicable to findings in terms of section 16(2)(d) of the Act. The court supported the reasons advanced in *Goniwe* for disagreeing with the conclusion in *Webster* that the standard is proof beyond a reasonable doubt. Reference is then made to the unreported judgment of Levy J delivered on 23 June 1994 in the Namibia High Court in the inquest into the death of Adv ATEA Lubowsky that fully supports the rejection by the court in *Goniwe* of the beyond a

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<sup>18</sup> At 879H – 880A.

<sup>19</sup> At 880B-C.

<sup>20</sup> *Supra* note 9.

reasonable doubt standard in *Webster*, describing it as 'obviously incorrect'. Levy J then commented as follows with regard to the application of the standard:<sup>21</sup>

However, I respectfully do not agree with Zietsman JP when he says in respect of the words '*prima facie*' that 'the test envisaged by the Inquests Act is whether the judicial officer ... is of the opinion that there is evidence available which may at a subsequent criminal trial be held to be credible and acceptable'. For reasons I have already stated, there may be no criminal trial. The judicial officer is required on the evidence and documentation submitted to him to decide whether or not a witness is 'credible and acceptable' and if he is not his evidence must be rejected. If the judicial officer rejects that evidence, he may nevertheless be left with some remaining evidence '*prima facie* involving' a person or 'amounting to an offence' by a person. If the person so incriminated gives evidence in the inquest court, which is acceptable to the judicial officer and which gainsays the 'remaining evidence', there is then no *prima facie* evidence involving or amounting to an offence. Should the evidence not be acceptable to the inquest officer, the remaining evidence may well '*prima facie* involve' a person or 'amount to an offence'.

[34] The court in *Padi*<sup>22</sup> supported the approach of Levy J to the application of the standard, which differs from that set out in *Goniwe*. The court indicated that the judicial officer holding the inquest is not required to determine the section 16(2)(d) findings, with reference to the credibility and acceptability that the evidence at the inquest might enjoy in a criminal trial. An inquest would not necessarily result in a criminal prosecution. It is an independent, separate process of significant import. The findings must be based on the presiding officer's own impressions and insights, and directed at the object of the inquest and fulfilling the task of the presiding officer. In this regard, presiding officers are not required to place themselves notionally in the shoes of the criminal court.

[35] I agree with the conclusion that the beyond reasonable doubt standard does not apply to inquests. I respectfully disagree with the application of the *prima facie* test set out in *Goniwe* and approach the present matter on the basis set out in *Padi* and *Lubowski*, with

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<sup>21</sup> This extract has been reproduced in (and is quoted from) *Padi* at 739G-I.

<sup>22</sup> At 740G-I.

which I concur. The credibility and acceptability of the evidence must be decided on the totality of the evidentiary material placed before the hearing. The critical question is whether, in the opinion of the presiding officer, the evidence, on the face of it (or at first sight), indicates that the death resulted from criminal conduct on the part of a person or persons. In my view, this exercise is best captured by the following description of a *prima facie* case set out in *Mazibuko*<sup>23</sup> (and to be applied *mutatis mutandis*), namely whether ‘a court, applying its mind reasonably, could conclude on the evidence in the case that the injuries to the plaintiff were caused by the negligence of the insured drivers’.

[36] Applying the last-mentioned approach to the present matter, the issue is whether the court could conclude, applying its mind reasonably to all the evidentiary material, that the deaths were caused by criminal conduct on the part of a person or persons. This is the approach that I will adopt to the matter.

## **THE EVIDENCE**

[37] Extensive evidence was presented at the hearing, which lasted approximately five weeks. To promote a better understanding of the expansive account of the evidence that was led contained in the summary annexed to this judgment, I will proceed to give an overview of the evidence under the following subheadings: (a) the affected individuals; (b) early interactions with the authorities and the APLA theory; (c) the role of Dr Edelmann; (d) investigation by Captain Darryl Els; (e) intimidation and surveillance; (f) encounters with informants and witnesses; (g) systemic, investigative, and institutional failures; (h) the fingerprints debacle; (i) ballistics and explosives failures; (j) other investigative lapses; (k) failure to hold a timely inquest; (l) political interference; and (m) narratives.

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<sup>23</sup> *Mazibuko v Santam Insurance & Another* 1982(3) SA 125 (A) at 133E-F.

## ***Overview of the evidence***

### **(a) The affected individuals**

[38] The evidence showed that the victims, survivors, and affected relatives were deeply impacted by this senseless attack.

#### *Victims*

[39] Royce Michael Wheeler was a 46-year-old married man who was shot and killed.

[40] Deric John Whitfield was a 42-year-old married man and a respected businessman. During the shooting, he sustained a bullet wound to the chest and abdomen, which resulted in his death.

[41] Stanley Hacking was a 65-year-old widowed father. He was a regular patron at the hotel. He sustained bullet wounds to the chest, which ruptured his heart and lungs, resulting in his death.

[42] Deon Wayne Harris, the youngest victim, was a 26-year-old man with a bright future ahead. He was watching rugby on the day of the massacre. He sustained bullet wounds to his right and left lungs, which killed him. Deon would have celebrated his 27th birthday on 13 May, which was also the date that his sister, Lyndene Page, was due to give birth to his first niece.

[43] Douglas William Gates, a well-known and loved figure in East London, was 56 years old. He had a deep love for animals and worked at the SPCA. Douglas sustained a bullet wound to the abdominal wall, rupturing the blood vessels in his groin and buttocks, which led to his death.

## *Survivors*

[44] Survivors described how their lives were not only devastated on the night of 1 May 1993, but in the decades that followed.

[45] The immediate aftermath of the Highgate Massacre left survivors and victims' families not only dealing with catastrophic physical and psychological trauma but also confronting the justice system, seeking justice for over three decades.

[46] Neville Beling ("Neville") was 20 years old at the time of the attack. He is a survivor of the Highgate Massacre. He is permanently disabled as a result of being shot. Neville sustained multiple gunshot wounds to his left arm, leg, and back, never worked again after the attack, and endured more than 15 major surgeries, developing sepsis and suffering multiple instances of heart failure due to anaesthesia. His life has been one of physical suffering and emotional trauma, compounded by the lack of justice. He testified in the inquest.

[47] Karl Andrew Weber was 37 years old at the time of the attack. He is another survivor who continues to live with emotional and physical scars. He was at the Ladies' Bar at the hotel when gunmen opened fire. He was shot, which resulted in his left arm being amputated below the elbow, rendering him partially disabled with only 40% functionality in his remaining right arm. This led to the loss of his job, home, car, and relationships. He also testified in these proceedings.

[48] Bureaucratic indifference was exemplified when Weber was initially denied a disability grant, with authorities arguing he still had one functional arm and both legs, receiving only R460.00 per month after legal intervention.

[49] Another survivor, William Freddie Baling, was 45 years old at the time. He went to the hotel with his brother, Keith Baling. They went to the public bar where they intended to play pool. He was shot in his lower back, which resulted in serious injuries. He has also

been in and out of the hospital ever since the attack. He indicates that he has not gone a single day without pain since the Highgate Massacre and says that he has never been able to return to work since.

[50] Megan Nadine Boucher was 22 years old at the time of the shooting. She was present with Karl Webber, Doreen Rossouw, and Douglas William Gates. Whilst sitting at the old Ladies' Bar, she was shot in her right leg, which resulted in serious mental and physical injuries.

[51] Nkosinathi Alfred Gontshi was a barman at the hotel and on duty on the night in question. He was 30 years old. Nkosinathi was sitting behind the bar counter when gunmen opened fire, which resulted in a gunshot wound to his right leg. Although he survived the attack, he has since passed away.

[52] Doreen Rossouw, another survivor who has since passed away, was at the Highgate Hotel having a drink with a colleague when gunmen opened fire. She was 57 at the time of the shooting and sustained injuries as a result of being shot in the leg.

[53] Finally, Charles John Bodington was 40 years old at the time and sustained serious injuries in the attack.

### *Relatives*

[54] As indicated, Lyndene Page is the sister of Deon Wayne Harris. She was 25 years old and pregnant with her first child at the time of the attack, which resulted in the untimely death of her brother.

[55] She has fought to keep the story of her brother alive and to demand accountability. Her advocacy reflects the resilience of the families who have had to endure the burden of living without loved ones, losing their solace and support.

[56] Bernice Whitfield was left without money or food to support her three children after the death of her husband, Deric Whitfield, having not received any insurance payout. Ten months later, she lost her 20-year-old daughter, Chantelle, in a hit-and-run incident that police never meaningfully pursued.

[57] Yvette Wheeler, the daughter of the late Royce Michael Wheeler, confirmed that her father was the sole breadwinner of their household when he was murdered and that their family lost their house after his death. Further, she could not afford to go to university as a result of the dire economic impact of losing her father had on their family.

[58] The prolonged delay in addressing the Highgate Massacre has meant that some family members have since departed. Among those are:

- 58.1 The parents of Neville – Neville Beling Snr, who passed away on 8 June 2016, and Zilla Beling, who passed away on 24 November 2017.
- 58.2 The father of Lyndene Page and the late Deon Wayne Harris, Neville Henry Harris, died on 18 August 2002. Lyndene's mother, Cynthia Lynette Harris, passed away on 22 July 2023

[59] They went to their graves without closure.

(b) **Early interactions with the authorities and the APLA theory**

[60] Initially, survivors accepted the widespread media and police attribution of the Highgate Massacre to the Azanian People's Liberation Army ('APLA'). Neville Beling testified that he believed this narrative until 2005, when, during a mediation with former APLA commander Letlapa Mphahlele ("Mphahlele"), he was told that the attack did not match APLA's operational style and that a "third force" might have been involved. This revelation fundamentally altered the survivors' views of the Highgate Massacre and

catalysed the formation of the Highgate United Group to seek a coherent investigation from the authorities.

[61] Karl Weber described in his testimony the profound psychological impact of learning that the accepted or dominant narrative might be false. He described how some of the survivors, when they felt insecure or threatened, received personal protection arranged by Mphahlele. Such support was not forthcoming from the South African Police Services ("SAPS").

(c) **Role of Dr Edlmann**

[62] Dr. Tessa (Theresa) Edlmann's ("Dr. Edlmann") involvement marked a critical turning point in the survivors' and families' quest for justice. Her December 2006 memorandum to the National Prosecuting Authority ('NPA') formally requesting renewed investigation and regular quarterly updates represented the first systematic attempt to re-engage official channels.

[63] Dr. Edlmann helped to organise the first gathering of Highgate Massacre survivors in September 2006 at the Kennaway Hotel, East London. This was their first meeting in 13 years, where an emotional reunion exposed deep anger and confusion among survivors who had all along firmly believed that APLA was responsible.

[64] Dr. Edlmann's support extended far beyond organising meetings to encompass comprehensive advocacy and personal care for survivors over two decades. Through the Spirals Trust, she facilitated critical reconciliation processes, including the 2005 mediation between survivors and former APLA Director of Operations, Mphahlele.

[65] She provided extensive personal support to survivors like Neville Beling, facilitating his medical treatment, surgeries, and accommodation during health crises, while highlighting his immense courage and resilience despite overwhelming physical and emotional trauma.

[66] Dr. Edlmann also documented the severe neglect experienced by survivors, revealing that, contrary to assumptions about white victims having adequate insurance/financial stability, many lived in dire poverty, such as Francina Wheeler, the widow of Royce Michael Wheeler, who resided in a garage without running water, as she received no insurance payout.

[67] Her work involved coordinating multiple families and survivors, as is apparent from her 2006 memorandum, ensuring they remained collectively engaged with authorities and maintaining detailed records that would later prove crucial to this inquest.

**(d) Investigation by Captain Darryl Els and betrayal of the survivors**

[68] In 2007, the survivors' desperation for answers led them to fund their own investigation, raising R5,000.00 to send SAPS Captain Daryl Els ("Els"), who had been the investigating officer from 13 May 1994 to 5 December 1998, on an investigation mission to Gqeberha/Port Elizabeth and Cape Town. Els claimed to have discovered evidence linking the attack to military-trained operatives of the Hammer Unit who had used a training site near Addo Elephant Park, where structures mimicking the Highgate Hotel were allegedly used for training.

[69] However, after completing his mission and claiming he had identified the perpetrators in a telephone call with Neville Beling, Els abruptly stopped communicating, later claiming his laptop containing all evidence had been stolen, leaving the families further traumatised.

[70] Els' investigation introduced tantalising, but ultimately unverifiable leads, including claims about Wayne Grobler ("Grobler") allegedly confessing to driving the getaway vehicle and Pieter John Woest Hall as giving the order, along with Major General CP van der Westhuizen, Andries Struwig, Captain FP du Preez, and Sergeant Major MD Hom as

participants. This explosive confession was relayed to the court through Frans Swele Molokome ("Molokome"), who supposedly also heard this evidence at Grobler's house in Cape Town. No formal statement was submitted by him at the time of allegedly hearing Grobler's confession. Grobler later denied ever meeting Els and having resided in Cape Town.

(e) **Intimidation and surveillance**

[71] The survivors' pursuit of truth was accompanied by incidents suggesting active intimidation, including but not limited to:

71.1 The mysterious 1995 shooting at Neville Beling's home, where automatic gunfire narrowly missed his cousin, and police later claimed the recovered projectile was just "a piece of metal". This demonstrated the dangers faced by those seeking answers.

71.2 Lyndene Page also recalled what she suspected was phone tapping in 2010, when she and Neville Beling noticed strange noises and echoes on their calls before a meeting at Highgate.

[72] According to Lyndene and Neville, when they attempted to report their concerns about phone tapping to the Cambridge Police Station, Colonel Steven du Rand ("Du Rand") refused to take a formal statement, citing fears for his own safety and family, advising them to slip their statement under his office door after hours. Significantly, neither in his statement nor his testimony did Du Rand deny that this happened. He simply claimed that he could not remember. In my view, the version of the survivors can safely be accepted over that of Du Rand.

(f) **Encounters with informants and witnesses**

[73] The investigation conducted by the survivors and the victims' families attracted various accounts from informants, which, for the most part, amounted to a wild goose chase.

[74] Lyndene and Neville indicated that Frederick Doug Petzer (Dirk) ("Petzer") told them that his brother, Sergeant Zieg Petzer, warned him that "it is going down tonight". He claimed that his brother phoned him from a payphone inside the Highgate Hotel to say "it has gone down, it has happened" minutes after the Highgate Massacre had taken place.

[75] The present investigation officer, Captain Peterson, records that Petzer claimed that when he spoke with Lyndene and Neville, he was intoxicated. Petzer himself denied saying this.

[76] Further uncertainty arose from a chance approach to the family by Edward Baymen Lombard ("Lombard"), a former Rhodesian Army soldier, at Morgan's Bay during a private ceremony to scatter the ashes of Deon Wayne Harris. According to Lyndene, Lombard claimed that he had been with Deon during the Highgate Massacre, had pushed him down when the shooting started, and returned fire at the attackers. The randomness of his sudden appearance at a private family event understandably raised the family's suspicions.

[77] Over time, other figures stepped forward with fragments of information and theories that tended to complicate, rather than clarify.

[78] The families received an anonymous digital tip in 2012 from a source on MXit, an online chat platform, who claimed to possess footage of the attack. All to no avail. Neville disclosed this tip to the police, who obtained the necessary section 205 subpoena and executed a raid on the property where these tapes were allegedly held. Unfortunately, there was nothing related to the Highgate Massacre on these tapes, and they were mostly just pornography.

[79] Karl Weber testified about a former intelligence operative, Alan Douglas Elsdon ("Elsdon"), who reached out to him. Karl recounted that Elsdon said he had served in the police's Crime Intelligence Service since 1973 and later worked as a private investigator. However, Elsdon later testified that he had actually been a member of the Security Branch. Elsdon volunteered theories about planning, authorship, and targeting concerning the operation. In a subsequent call with Karl's attorney, Paige Winfield ("Winfield") of Cliffe Dekker Hofmeyr ("CDH"), he identified two men (one deceased) as supposed suspects based on a source he called "Hennie" (later identified as Hendrick Louw), who refused to reveal what he knew when approached by Winfield.

[80] In messages introduced from Annexure B to Karl's affidavit, being screenshots of his conversations with Elsdon, the latter dismissed suggestions that ballistic exhibits were posted to Cape Town as "nonsense," insisted Highgate (not Orange Grove) was the intended target, and opined that the attack was "a bright idea from someone higher up" rehearsed in detail.

[81] Roland Parker's ("Parker") evidence independently corroborates the pattern and tenor of Elsdon's approach. Parker testified that Elsdon contacted him via Facebook Messenger on 30 January 2025, soon after footage of the inquest inspection in loco was posted on Facebook. Elsdon demanded secrecy and expressly cautioned Parker not to inform Neville, Dr. Edlmann, or the legal teams. Elsdon asked Parker to send him reports on the daily inquest court proceedings and to confirm whether the "Hammer Unit" had

been mentioned. Elsdon passed on articles and an e-book ("My Cryptic Life") about the Hammer Unit to Parker and claimed that the unit was dangerous and still active.

(g) **Systemic, investigative, and institutional failures**

[82] Retired Brigadier Clifford Marion ("Marion"), the private investigator for the families, set out a litany of investigative lapses and blunders.

[83] Marion testified that "certain shortcomings amount to gross negligence on the part of the responsible authorities," notwithstanding the involvement of senior and experienced police officers in the investigation. He summarised multiple lapses, including:

- 83.1 The scene was not properly investigated,
  - 83.1.1 No effort was made to lift fingerprints from the spent cartridges and grenade levers,
  - 83.1.2 Elimination prints were not taken;
- 83.2 Crucial evidence, such as the ballistic and fingerprint evidence, was lost.
- 83.3 Important statements linking identity photo parades were not completed;
- 83.4 The docket was dormant and seemingly missing for several years, resulting in virtually no investigations during a period of more than 11 years from December 1998 to August 2010;
- 83.5 In addition, there were unexplained and lengthy investigative delays, indicating that the investigations were conducted with little or no urgency.
- 83.6 In particular, these included several key aspects that were not investigated:

83.6.1 the alleged Citizen Newspaper call on 3 May 1993, claiming that APLA was responsible for the attack, was not traced;

83.6.2 the call allegedly made from the Highgate Hotel phone booth was not traced;

83.6.3 the alleged getaway vehicle with the number plate starting with the letters and number XB 3 was not traced;

83.6.4 fingerprints were not lifted from the AK-47 cartridges or the fly-off levers of the grenades found on the crime scene.

[84] Marion indicated that suspects often leave trace prints on ammunition while loading it, and such prints could have been matched against the AFIS system introduced in 2000-2001 or the Home Affairs ABIS database. However, there is no evidence suggesting such items were tested for prints, and not a single officer on the scene confirms or states this happened.

[85] Captain Peterson's characterisation of this failure as "a serious blunder" highlights the magnitude of this neglect, particularly when contrasted with the elaborate fingerprint elimination exercise that apparently followed the incident, involving 64 individuals whose prints could not be matched against negligible or non-existent scene evidence.

[86] Several police officers who were involved in the crime scene investigation and subsequent tasks, such as photo ID parades, did not make statements, including:

86.1 Warrant Officer Venkile, Sergeant Rutters, Warrant Officer Roos, and Sergeant Els;

- 86.2 Sergeant Bossr, who attended the crime scene from 1 May 1993 to 2 May 1993, who only submitted an affidavit some 31 years later on 3 February 2025;
- 86.3 Sergeant Brandt, the explosives expert who attended the scene;
- 86.4 Sergeant Wayne Xavier Rutters, who conducted photo identifications with various witnesses soon after the attack, testified that he normally would have compiled a statement documenting the identifications as per standard procedure. He could not recall whether he made a statement or not, but admitted that the omission was "disturbing" given the high-profile nature of a case involving five murders;
- 86.5 Warrant Officer David Henry Roos also conducted photo identification parades, in which positive identifications were apparently made. He did not depose to any statement in connection with his investigations. When Roos testified, he claimed to have no recollection of his investigative steps. The complete absence of any recollection by Roos of his involvement in the investigation exemplifies the chaotic and shockingly poorly documented nature of the initial investigation;
- 86.6 Dean George Venish was a Constable or Lance Sergeant in the Dog Unit in 1993, and one of the first responders on the scene. He witnessed one of the injured patrons refer to the attackers as "those bloody whites". No statement was taken from him until 2012, nearly 19 years after the incident. Venish expressed surprise at this delay, stating, "I was surprised that nobody was coming."

[87] Certain affidavits were missing from the docket, including that of:

- 87.1 Captain Schwartz, who attended the crime scene from 3 May 1993 to 12 May 1993; and

87.2 Lieutenant Colonel W J De Lange, a member of the Security Branch whose affidavit, filed as A51, prompted the arrests of Xolile Ngxabane and Dumisile Nontshokweni.

[88] Four warrants of arrest are missing from the docket.

[89] The docket is entirely silent on why Mtutuzeli Mama was arrested and charged on 29 April 1994 and the charges were withdrawn against him on 2 May 1994.

[90] All the ballistic evidence, including all cartridges (except for the projectile recovered from Neville Beling), was apparently stolen from the Cape Town Post Office on 14/15 July 1995.

[91] Colonel Victor Jacobus Van der Merwe ("Van der Merwe"), who prepared the ballistic report, expressed bewilderment that someone would target a package containing spent cartridges with no commercial value. The loss of the cartridges prevented them from ever being uploaded onto the Integrated Ballistics Identification System ("IBIS"), which was introduced in 1997, thus permanently closing the possibility of linking any recovered weapons to the massacre.

[92] According to Marion, in his experience, it was never standard procedure to send important exhibits by post. He asserted that it was standard procedure to protect the integrity of the chain of custody by hand-delivering exhibits to the forensic science laboratory.

[93] Marion concluded that:

"... this investigation was grossly substandard. But for these blunders, this investigation may have solved this brutal crime, particularly if forensic evidence had been properly collected, safeguarded, and tested. Such gross incompetence inevitably gives rise to a deep suspicion on the part of the survivors, families, and members of the public that the investigation was designed to fail. I fully understand the sentiment."

[94] Some of these lapses are dealt with in greater detail in the summary of evidence that accompanies this judgment, marked Annexure 'A'.

(h) **The fingerprints debacle**

[95] A consideration of the forensic examination of the Highgate Massacre crime scene revealed serious failures in basic evidence preservation and collection, especially in relation to fingerprints. These lapses fundamentally compromised the investigation from its inception.

95.1 Constable Johannes Frederick van Deventer du Plessis ("Du Plessis"), the crime scene photographer, arrived at the Highgate Hotel at approximately 22h40 on 1 May 1993. He was also a fingerprint expert, and confirmed that prints should have been taken from critical pieces of evidence, including the teargas canister and grenade, and teargas levers; however, he did not know or could not recall whether that was done or not.

95.2 The fifth and current investigation officer, Captain Peterson, conceded that a failure to lift prints would be a "terrible blunder," emphasising that

fingerprinting should have been a basic investigative step, particularly given the gravity of a case involving five fatalities.

95.3 Captain Kelvin Cecil Swartbooi ("Swartbooi"), a SAPS fingerprint expert who examined, during January 2025, archived fingerprint evidence from the Highgate scene, acknowledged significant gaps in the original forensic examination, including the failure to fingerprint the 56 x AK-47 cartridges, the grenade lever, and the teargas canister lever, stating that if he had conducted the crime scene investigation, he would have fingerprinted these items.

[96] The investigation diary entry at C6 dated 2 May 1993 stated that fingerprints were lifted from the scene, yet by the start of the inquest, Captain Peterson found no records or documentation confirming this, and when he contacted the LCRC office, they claimed that a rainstorm had destroyed many records at the former Oxford Street premises.

[97] However, after a search for the missing fingerprint exhibits, which was started on 27 January 2025 through the LCRC archives, an envelope containing seven Foliens from the scene of the Highgate Massacre was discovered on 30 January 2025. The Folien had been so poorly stored, however, that it was completely unusable. That begs the question as to how such crucial exhibits (but not others) could have been found after a relatively short period of searching (approximately three days), and further as to how such critical evidence could have been stored so ineptly as to render it worthless.

[98] The original LCRC docket containing critical information, such as photo logs and evidence chain documents, has never been located. Du Plessis explained that the office had moved three times since 1993, which, in my view, does not in any way provide a justifiable explanation.

[99] The investigation diary entry at C6 dated 2 May 1993 confirmed that Lieutenant Stassen, Sergeant Naudé, and Constable Du Plessis attended the scene to conduct a forensic analysis. Du Plessis confirmed that his role was limited to photography while Stassen and Naudé were responsible for actual fingerprint collection.

[100] Consequently, Stassen, the senior fingerprint officer, became a crucial missing link in understanding the forensic failures.

[101] Stassen's inability to confirm whether critical evidence was fingerprinted, despite being the senior officer responsible for forensic investigation, exemplifies the systematic breakdown in evidence collection and documentation. His admission that he gave minimal instructions to his team and did not follow up on whether chemical fingerprinting was subsequently conducted represents a fundamental abdication of supervisory responsibility.

[102] The absence of a proper command structure compounded these failures. According to Stassen, Lieutenant-Colonel Knoetze, the LCRC commander, arrived at the scene but immediately departed upon seeing him present. Inexplicably, a lieutenant was left to supervise a mass murder scene without oversight.

[103] This created a situation where, as Stassen explicitly admitted, "nobody" was responsible for ensuring Sergeant Naude performed his work properly, with Naude working "on his own time" despite Stassen outranking him as a lieutenant, as against Naude's rank as sergeant. This reveals a complete breakdown in the chain of command and quality control at one of the most serious crime scenes in East London's history.

[104] The forensic investigation's credibility was further undermined by Stassen's contradictory testimony about his activities during the seven hours at the scene. While initially claiming in his YouTube post to have been "incredibly busy," he later admitted under cross-examination to not conducting an initial scoping of the scene and spending virtually all of his time "outside talking to colleagues". He claimed quite astoundingly that his subordinates needed no supervision as they were experienced.

[105] A further investigation diary entry at C55, dated 27 May 1993, noted that fingerprints and palmprints were taken from potential suspects and handed to LCRC, with an elimination report pending. Yet, no such report exists in the docket.

[106] It is little wonder that Marion was moved to describe the crime scene and subsequent investigation as a "disgrace".

**(i) Ballistics and explosives failures**

[107] The bungling of the handling of the ballistics evidence eliminated any possibility of linking the weapons used to their sources or to other crimes.

[108] As stated, Van der Merwe, the ballistics expert who analysed the crime scene evidence, revealed that the original forensic docket containing all ballistic exhibits, including 56 spent cartridges, bullets, reports, and covering letters, was apparently stolen from the Cape Town Post Office in July 1995.

[109] This theft meant that the cartridges and their headstamps, which would have identified the country of origin, manufacturer, and lot numbers of the ammunition, could never be analysed. According to Van der Merwe, such evidence could have been used

to trace whether the ammunition came from domestic sources like Pretoria Metal Pressings (“PMP”) or foreign suppliers.

[110] Van der Merwe determined that at least two AK-47 rifles were used in the attack, with 19 spent cartridge cases matching one weapon and 28 matching a second, but, as mentioned above, the theft of these exhibits meant they could never be uploaded onto the IBIS system, thereby eliminating any possibility of future matches if the weapons were recovered.

[111] The explosives evidence was similarly mishandled, with critical identification opportunities lost. Charl Jurgens Naudé (“Naudé”), the ammunition expert called by the families, identified the teargas grenade as locally manufactured by Swartklip Products and primarily used by the police and selected army units, while the hand grenade lever was consistent with Soviet F1 or RDG series grenades.

[112] Despite these items possibly bearing fingerprints, Du Plessis confirmed that no fingerprints were taken from either the teargas canister or the grenade metal levers.

[113] Van der Merwe's crime scene observations documented approximately 30 bullet holes in the public bar area alone, with seven in the passage leading to the Ladies' Bar, seven in the Open Arms Bar, and three fired from behind the bar counter, possibly from civilian return fire. His analysis of the Ladies' Bar, where four victims died, noted the complete absence of bullet marks on walls or ceilings, which he interpreted as indicating the assailant's bullets found their targets with unusual accuracy and proficiency, suggesting either semi-automatic fire or controlled bursts rather than the full-automatic spray typical of untrained operators.

[114] Van der Merwe explained that AK-47 cartridges from Russian or Chinese origin often include minimal markings, sometimes merely numbers such as "531," while South African-manufactured ammunition from PMP could be distinguished by specific characteristics. Upon examining photographs of the crime scene, he observed unusually shiny cartridge cases that could possibly have indicated PMP manufacture, but without the physical exhibits, these assessments remained speculative, and Van der Merwe declined to make assumptions in this regard.

[115] The explosives evidence pointed to military or police sources. Naudé's expert analysis determined that the CS teargas grenade was manufactured by Swartklip Products (later absorbed into Rheinmetall Denel Munition) and distributed through SAP central depots or military depots such as De Aar, Naboomspruit, or Jan Kempdorp for controlled distribution to trained personnel.

[116] The hand grenade components, specifically the UZRGM fuse fly-off lever, were identified by Naudé as Soviet-manufactured, typically smuggled into the country from Soviet bloc states. Naudé's examination of blast damage at points X, Y, Z, and A1 in the photographs of the scene, found that it was consistent with an RDG-5 grenade (which is classified as an offensive grenade with more so-called "explosive power" having 100 grams of TNT compared to an F1 grenade's approximately 60 grams of TNT) rather than an F1, based on the absence of large floor gouges and the specific carbonisation pattern left by TNT.

**(j) Other investigative lapses**

[117] The investigation into the Highgate Massacre was characterised by a pattern of negligence that extended far beyond the initial crime scene failures.

[118] Captain Peterson, who inherited the investigation in August 2021, testified that the docket he received contained 76 statements, many of which were copies, uncommissioned, or unsigned, with statements A2, A3, A4, A7, A8, A9, A10, A12, A13, A15, A16, A17, A18, and A49 among those lacking proper commissioning.

[119] The investigation diary revealed a disturbing pattern of instructions having been ignored and duties neglected, with multiple entries between June and August 1994 showing commanders instructing that an inquest docket be prepared, yet it was never completed despite assurances that statements were being typed.

[120] The peculiar interventions of various "investigators" reveal a pattern of not just gross incompetence but, it appears, deliberate misdirection. Elsdon testified that Els had told him the SAPS prevented him from fully investigating the Highgate Massacre and that a covert SADF group known as the Hammer Unit was responsible. Elsdon provided Captain Peterson with the names of two alleged Hammer Unit members, the brothers Marius and Fanie van Zyl, in February 2023, yet none of these so-called leads proved to be fruitful.

[121] The investigation's treatment of APLA-related evidence reveals selective blindness. Dumisani Ncamazana ("Ncamazana"), who was convicted for, inter alia, a separate 1994 Highgate attack, explicitly denied involvement in the 1993 Highgate Massacre and rejected various claims that he had admitted responsibility as "not true."

[122] More significantly, Letlapa Mphahlele testified unequivocally that APLA was not responsible for the May 1993 attack, listing multiple reasons why it was inconsistent with APLA operations: attackers wore balaclavas (never used by APLA), used tear gas for retreat (unprecedented in APLA operations), faces were painted (not typical), and the weapons used were not consistent with APLA's arsenal at the time. He emphasised that all APLA operations during his tenure were meticulously documented and archived, but

no records exist of the May 1993 Highgate attack despite extensive state raids on these archives.

**(k) Failure to hold a timely inquest**

[123] One of the most troubling aspects that has emerged during the hearing is the extraordinary delay of 32 years in establishing an inquest.

[124] Despite the legal requirement that an inquest be held whenever someone dies from unnatural causes and no criminal trial ensues, no inquest was convened in 1993 or the years thereafter. Section 5(2) of the Inquests Act requires that a magistrate "shall ensure that an inquest is held" when deaths occur from unnatural causes without prosecution.

[125] The investigation diary shows that Captain Ian Swarts ("Swarts") repeatedly instructed between June and August 1994 that an inquest docket be prepared, yet these directives were systematically ignored without explanation.

[126] Captain Peterson confirmed that, despite the legal requirement, no inquest was convened in 1993 or the years immediately following.

[127] When the docket was forwarded to the Attorney General's office between November 1994 and January 1995, it was returned with no recommendations for further investigation, effectively abandoning the case.

[128] This represents a cynical failure of the justice system. As a result, the burden of seeking justice fell entirely on the traumatised survivors and bereaved families, who were

forced to become their own investigators while struggling with severe physical disabilities and psychological trauma.

[129] The families were subjected to what Dr. Edlmann characterised as repeated cycles of false hope.

[130] The docket's transfer to the TRC created a hiatus in the investigation, with Captain Peterson confirming that during this period, no police officer was actively working on the case since the docket was apparently not in their possession.

[131] When Lieutenant Colonel Mahlangu queried in the investigation diary on 5 August 2014 whether there was any evidence, Nel's response simply noted it as a "CATS enquiry" and TRC case without addressing the evidentiary issue.

[132] The 32-year delay, combined with the State's abdication of its investigative duties and the burden placed on traumatised survivors to pursue their own justice, represents not merely procedural failure but a fundamental breach of the constitutional promise of dignity and justice for all citizens.

[133] I am constrained to say in the circumstances that the 32-year delay in holding an inquest, combined with the systematic failures documented here, actually approaches the fundamental dereliction of a constitutional duty, rather than just mere neglect.

**(l) Political interference and 'closure' of apartheid era cases**

[134] This inquest has also touched on the broader context of why so many apartheid-era atrocities, including the Highgate Massacre, were not pursued by prosecuting authorities following the winding up of the Truth and Reconciliation Commission ('TRC').

[135] Advocate Mthunzi Mhaga ("Mhaga"), a Special Director and Head of the Legal Affairs Division in the National Prosecuting Authority ('NPA'), testified that between 2006 and 2009, he was based at the Priority Crimes Litigation Unit (PCLU) working on the TRC cases. More particularly, he worked on the Highgate matter between 2006 and 2007.

[136] Mhaga confirmed that during these years, the NPA had no investigative support and was unable to investigate the TRC cases, including the Highgate case. Nonetheless, he attempted to carry out informal or preliminary investigations himself to try and get the case off the ground, even though he possessed no investigative powers and enjoyed none of the resources of the police. Unsurprisingly, he was unable to make any progress.

[137] The families' legal team placed on record that political interference in the work of the NPA brought a halt to the investigation of the TRC cases, between 2003 and 2010, when both the Directorate of Special Operations and the SAPS refused to investigate the cases, even though they concerned the most serious crimes involving murders and massacres.

[138] Indeed, the Court was informed that the families of the Highgate victims (along with other victims of apartheid-era crimes) have recently initiated litigation against the South African Government, seeking constitutional damages and an inquiry into the systemic suppression of these cases. Correspondence featuring in this litigation was put up confirming that the NPA was denied investigative support during this period.

(m) Narratives

[139] Since nobody applied for amnesty for the Highgate Massacre, and no one with real inside information has come forward, there are no identifiable individual suspects in this matter.

[140] What is left are several narratives or theories that might serve to explain the Highgate Massacre. However, there is no hard evidence to sustain any of the narratives.

[141] Louise Flanagan, in her report "Attack on the Highgate Hotel: The Eastern Cape context" ("the Flanagan Report"), notes:

"Highgate was not an armed robbery. There does not appear to be any evidence that this attack targeted an individual over a personal grievance. This attack appears to be political violence, carried out at a time when political violence was being used to whip up support for certain groups, encourage fear, and encourage anger towards other groups, during a crucial time of negotiations and transition."

[141] The Court had the benefit of hearing the expert evidence of Brigadier Marion, who explored five possible narratives:

141.1 The APLA narrative.

141.1.1 The APLA narrative originated on the night of the massacre, according to the Investigation Diary entry at 23:30 on 1 May 1993. The press ran sketches nationwide with a R150 000.00 reward authorised by Major General Huggett and Minister Hernus Kriel,

attributing the attack to APLA. Some 64 persons connected to APLA and the ANC were questioned, with fingerprints and palm prints checked. Several were arrested, and at least one (Mama) was formally charged, though charges were later withdrawn.

- 141.1.2 Marion noted Flanagan's research showing the South African Police ('SAP') raided PAC homes and offices nationwide on 25 May 1993, arresting 81 PAC members and seizing documents. Despite these raids occurring weeks after Highgate, there did not appear to be anything uncovered linking APLA to the Highgate Massacre. Large numbers of PAC/APLA files seized during the 1995 SADF raids in Umtata and Lesotho similarly revealed no Highgate connection. APLA commander Mphahlele commented on the absence of evidence in these files.
- 141.1.3 Marion quoted Flanagan's critical observation: "If this attack was carried out by an APLA unit, what happened to those involved? Why did they not claim amnesty, as for similar attacks?" The standard APLA practice involved geographically separate groups knowing of operations. However, it is the operational unit and commanders who would claim media responsibility.
- 141.1.4 Marion concluded that, in his view, the investigation pertaining to APLA had been thoroughly conducted, with APLA command categorically denying involvement. He noted APLA claimed responsibility for 36 of 64 attacks listed in Robert John Tyrrell's ("**Tyrrell**") report. Thus, suspects' particulars, fingerprints, and weapons from other attacks should have been linked to this attack by now, at least by way of the palm-prints and ballistic evidence. However, he acknowledged that the possibility cannot be ruled out that renegade APLA operatives committed the attack and kept quiet

and did not apply for amnesty, though this remains in the realm of conjecture or speculation.

## 141.2 The Hammer Unit narrative.

141.2.1 This theory emerged during Els's private investigation in 2006 when he told Neville Beling that a "Third Force" called the Hammer Unit was involved. At a Kennaway Hotel meeting on 28 November 2006 in East London with survivors and Mphahlele, Els stated that the attackers were not APLA, listing multiple inconsistencies, namely:

- (a) Attackers wore black/dark blue, used AK-47s, hand grenades, and teargas, which APLA did not;
- (b) APLA used R1s, R4s and R5s as they could not get AK-47 ammunition;
- (c) Withdrawal under teargas was a first;
- (d) Some attackers had black camouflage paint, suggesting they were white;
- (e) No vehicles were reported stolen/hijacked before the attack, unlike typical APLA operations;
- (f) Attackers showed greater training and shooting accuracy than in APLA incidents;

- (g) AK-47s were never linked ballistically before or after, suggesting they were used specifically for that attack and destroyed;
- (h) Police received no intelligence reports on Highgate, unlike other attacks, and
- (i) No relevant documentation existed in the seized APLA files.

### 141.3 The Disgruntled Patrons narrative.

141.3.1 This narrative arose from multiple incidents on 1 May 1993, where black patrons experienced discrimination at the Highgate.

(a) The bar lady served cigarettes to two black males around 10h00, but told them they were out of stock for beer. Marion noted that it was highly unlikely that the Highgate would have actually run out of beer.

(b) One of the persons at the hotel, Arnott, told a black male who was using the public payphone that the phone was not a public phone and that there was a public phone down the road. The black male ignored him and continued using the phone. Eventually, he ordered them to leave the premises. They left the premises and drove off in a blue and white Toyota or Mazda bakkie with a white canopy in the direction of Summerpride.

141.3.2 Claassen furthermore observed two black men enter the Men's Bar at 11:25, with one grinning at him before they left after a hand gesture from barman Gontshi.

141.3.3 Marion noted this narrative suggested aggrieved patrons may have returned that night to exact vengeance against the white patrons and staff. This narrative, however, carries a low likelihood.

#### 141.4 The Askari narrative.

141.4.1 Marion provided extensive detail on the Askari narrative, which Flanagan's research suggested as particularly compelling. Askaris were turned liberation movement members who underwent military training outside South Africa, were arrested on return, and either turned by the Security Branch's C1 unit or voluntarily became informers. They were trained in the use of Eastern Bloc weapons, including AK-47 rifles, Tokarev and Makarov pistols, limpet mines, Soviet F-1 hand grenades, and RDG-5 anti-personnel fragmentation grenades - matching Highgate evidence.

141.4.2 The East London Askari unit was established in the late 1980s (likely 1987-1988) under Eugene de Kock's overall Vlakplaas command. They initially rented a farm in the Summerpride area near the Johnson & Johnson factory and possibly on the Thornycroft Road, less than 5km from the Highgate Hotel, before moving to Greenfields in mid-1992. The unit grew from about 10 members in 1989 to a larger group by April 1993.

141.4.3 Eugene De Kock's amnesty testimony confirmed that he supplied Eastern Bloc weapons to East London operatives under Captain Willie de Lange's command, stating weapons were "for clandestine, covert operations which would have led to the death or injury of the enemy" and would "leave the impression that the Security Police

could not be connected... it would point in the wrong direction." Eugene De Kock testified he provided "four AK-47 assault rifles with magazines and 16 hand grenades" to East London operatives.

- 141.4.4 Alfred Benjamin "Ben" Bambatha's affidavits to Minister Sydney Mufamadi confirmed Askaris received "extensive firearms training" at locations including Westbank Prison shooting range and Mooiplaas Security Branch training area, with specialized Task Force training. Bambatha referenced planting weapons, including F1 hand grenades, at crime scenes. The unit's operations included murders rather than arrests, planting weapons to justify killings, executing alleged guerrillas following abduction, and effecting the disappearance of targets intending to join exiled movements.
- 141.4.5 Crucially, the Askari units were closed down at the end of April 1993, with Askaris paid out, just days before the Highgate attack. The SAPS payout list (Exhibit "CRMC2") revealed significant discrepancies: black Askaris received between R27 000.00 and R476 000.00 (most around R150 000.00), while white supervising officers received substantially more - P.J. Van Dyk (R796,525.73), E.A. De Kock (R1,001,444.46), and J.S. Vermeulen (R1,102,929.93). Marion noted that it is not known whether the discrepancy was known to the Askaris, but as suggested by Flanagan, the abrupt dismissal could have prompted some or a few of the Askaris to attack the Highgate Hotel with weapons at their disposal as an act of reprisal for their poor treatment.
- 141.4.6 Flanagan identified four crucial aspects: Askaris knew the Summerpride area well enough to identify escape routes; they likely knew Highgate was a police hangout where senior officers frequented; they had police weapons training, including from special

task force trainers; and they had access to unaccounted-for weapons provided by Eugene De Kock.

141.4.7 Captain Peterson's investigations traced and interviewed three Askaris: Fokazi, Oliphant, and Twala, all of whom denied involvement

141.5 The False Flag narrative.

141.5.1 Marion contextualised this narrative within the fragile 1993 transition period when the Transitional Executive Council announced elections for 27 April 1994. He testified: political violence was often used to try to sabotage the negotiation process, polarise communities, and erode trust. The Highgate Massacre might not be an isolated and seemingly random attack but rather part of a broader scheme orchestrated by those aiming to manipulate the fragile political climate.

141.5.2 He detailed how false-flag operations are designed to appear as though they were perpetrated by an entity other than the group actually responsible, calculated to generate sympathy for the attacked group and justify retaliatory operations. The TRC found the South African state responsible for various false-flag operations, including arranging Eastern bloc weapons caches to justify attacks on Botswana (1988), bomb explosions at Joubert Park and J.G. Strydom Hospital (1989), attacks on SAP Flying Squad headquarters using AK-47s and RGD-5 grenades (1989), planting arms at Khanya House and COSATU buildings, and various bombings of railway stations and power plants.

- 141.5.3 The day after Highgate, both the ANC and the Democratic Party suggested it was carried out by those wanting negotiations to fail. ANC Border official Mcebisi Bata stated that some people in the right wing are trying to whip up emotions, and some in the South African security forces, who are trying to mobilise whites against negotiations. Democratic Party MP Andre de Wet also said something to the effect of: "I'm personally not convinced it's APLA... As we move closer to an interim government and joint control of the security forces, such attacks will continue and escalate".
- 141.5.4 Flanagan's research revealed a covert SADF/SAP group operated in the Eastern Cape led by SADF officer Anton Nieuwoudt with access to weapons from Eugene de Kock, suggesting renegade elements might have carried out Highgate as a false-flag operation to instigate right-wing backlash and derail democracy.

### ***Summary of the evidence***

[142] An in-depth account of the witnesses' testimonies appears more fully from the summary of the evidence annexed to this judgment marked 'A', which must be regarded as having been incorporated herein.

### **CONCLUSION**

[143] Even though the Highgate attack counts among the most devastating incidents of its nature at the time, we are nowhere closer to complete answers more than 30 years later. The attack was meticulously planned and callously executed with the precision of highly trained operatives. Its consequences were lethal, having virtually destroyed the

lives of the many affected parties who are left without any real redress. Its sheer wickedness is beyond comprehension. It is disconcerting in the extreme and an utter travesty if not a disgrace that so little effort has been made right from the inception to properly deal with this matter.

[144] The many examples of bungling, lapses, failures, and neglect in dealing with the matter are fully documented in this judgment. This includes improperly investigated crime scenes, failure to lift fingerprints from cartridges and grenade levers, missing elimination prints, lost ballistic and fingerprint evidence, incomplete statements linking photo parades, dormancy of the docket for over 11 years, and unexplained, lengthy investigative delays showing a complete lack of urgency. This state of affairs is simply shameful, and the main reason why this matter has seemingly landed in a dead-end. I agree with Brigadier Marion that the investigation was grossly substandard and but for these blunders, the investigation may have solved this brutal crime, particularly if forensic evidence had been properly collected, safeguarded, and tested. This incredibly gross incompetence inevitably gives rise to the suspicion that the investigation was designed to fail. I should, however, hasten to add that this inquest is capable of being reopened should the situation change or new information become available.

[145] In my view, the Highgate attack was more than likely a false flag operation, partly intended to wrongly implicate APLA. However, the narrative that APLA was responsible has been convincingly debunked in these proceedings, in particular by the evidence of Mr Mphahlele, as well as the expert testimony of Mr Robert Tyrrell, which can be accepted without reservation. Added to this is the evidence that the faces of the attackers were smeared black; the comment by one of the patrons referring to the attackers as whites; the credible and detailed evidence of Mr Karl Weber that one of the attackers was wearing police issue boots; the accuracy of the attack; the lack of any APLA operatives having applied for amnesty in respect of the incident; and the unusual modus operandi of the attackers, such as the use of AK-47s, the inability to link the spent AK-47 cartridges found on the crime scene to any other attack showing that 'clean' weapons were used, and the

use of tear gas as a cover to withdraw from the crime scene. The cumulative effect of all this militates against the involvement of APLA. Furthermore, on all accounts, Karl Zimbiri, who purportedly took responsibility on behalf of APLA for the Highgate attack, was a fictitious figure conjured up to perfect the false implication of APLA in this despicable deed.

[146] The remaining narratives can be safely discounted, save that the involvement of the Hammer Unit remains a possibility. It cannot presently be put higher than that. In my considered view, the involvement of elements within the Apartheid security forces is more probable than not.

[147] Being acutely aware that it was not possible to accomplish closure in this matter, I proceed to make the undermentioned findings in terms of section 16(2) of the Inquests Act.

## **FINDINGS**

[148] In the result, I make the following findings:

(a) The identities of the deceased are –

(i) **STANLEY HACKING;**

(ii) **DOUGLAS WILLIAM GATES;**

(iii) **ROYCE MICHAEL WHEELER;**

(iv) **DEON WAYNE HARRIS**; and

(v) **DERIC JOHN WHITFIELD**.

(b) The cause of death of each one of the deceased is multiple gunshot wounds inflicted by an assault rifle(s).

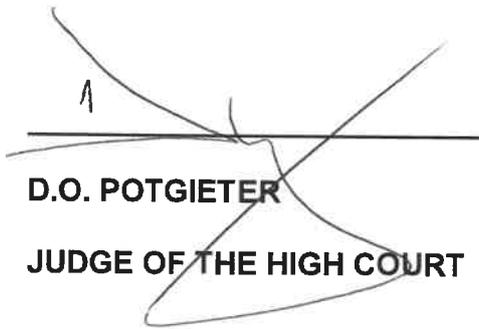
(c) The date of death of each one of the deceased is 1 May 1993.

(d) The deaths were brought about by the offence of premeditated Murder in that the deceased were wrongfully and intentionally shot with an assault rifle(s). (I should add that the same applies to the survivors). The identity of the individual perpetrators is unknown, save that *prima facie* they were probably members of a renegade covert group within the Apartheid security forces, seemingly intent on derailing the political transition at the time, who staged the attack, to falsely implicate APLA.

### **CLOSING REMARKS**

[149] It remains for me to express sincere appreciation for the invaluable assistance of both legal teams, as well as the investigating officer, Captain Peterson, who all helped to make this very difficult task somewhat manageable. Also, for the participation of all the witnesses, in particular, the survivors and affected families. It is my earnest wish that you will find closure in the fullness of time and that justice will eventually prevail. Last but not least, to the court's support

staff who perform an indispensable and often less conspicuous role. Not forgetting the members of the Media who conscientiously reported on the proceedings, thereby sharing the story of the Highgate Massacre with the nation.



D.O. POTGIETER  
JUDGE OF THE HIGH COURT

answer. The drafting of the charge sheet is a critical step because it guides the court proceedings and determines the scope of the trial.

66 Once finalised, the matter can be enrolled in court for its first appearance.

## G PROGRESS OF TRC CASES

67 Whilst it is not ideal to disclose updates on progress on matters, for obvious reasons, it is imperative to show progress on FHR related matters which is as follows:

Applicant	Matter	Division	Progress	PCLU list Sept 2021	Status
1 <sup>st</sup> Applicant: Lukhanyo Bruce Matthews Calata	Deceased messrs Fort Calata, Sicelo Mhlauli, Sparrow Mkonto and Matthew Goniwe aka the Cradock Four	Eastern Cape Inquest re- opened, the matter is part heard.	The third inquest into the deaths of Messrs Mhlauli, Mkonto, Goniwe and Calata commenced with evidence led on 2-11 June 2025. Judge Beshe presides over the matter. The matter has been postponed to 13-24 October 2025 for further evidence and issues pertaining to	Yes	On the inquest court roll

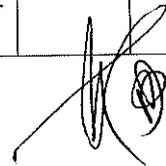
			legal representation of former South African Defence Force (SADF) members to be resolved. This is underway. Further evidence was led on 13 October 2025. The matter has been postponed 23 to 27 March 2026.		
2 <sup>nd</sup> Applicant: Alegria Kutsaka Nyoka	Mr Caiphus Nyoka	North Gauteng Accused number one found guilty and sentenced. S v Marais	After an investigation by DPCI, the state charged four former police officers for the death of Mr Nyoka. Mr Marais, accused number one, pleaded guilty during November 2023, and after sentencing procedures were completed (due to the various issues that arose during pre-sentencing) on 10 July 2025, he was sentenced to 15 years imprisonment.	yes	Finalised- Convicted and sentenced


  
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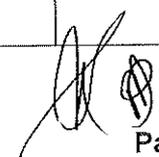
		<p>Second case emanating from the Nyoka matter-on the criminal court roll- S v Engelbrecht and others</p>	<p>Leave to appeal was dismissed on 15 September 2025.</p> <p>This matter also stems from the Nyoka matter after Accused number one, Mr Marais above, pleaded and was found guilty and sentenced. The trial was separated from his remaining accused, Engelbrecht and two others. Evidence was presented in respect of the three-remaining accused. Further evidence was led between 12-30 May 2025. A discharge ito s174 was refused iro the all the accused, whereafter all three accused then closed their case. The matter was postponed to 22</p>	<p>On the criminal court roll- Judgment on 2 December 2025</p>
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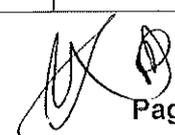
			<p>September 2025, Defence had to file its response by 15 October 2025, with oral arguments to be heard on 12 November 2025. Judgement will be delivered on 2 December 2025.</p>		
3 <sup>rd</sup> Applicant Bonakele Jacobs	Mr Mxolisi Dicky Jacobs	Northern Cape	<p>There are challenges in this matter, no inquest docket could be traced. A Mail and Guardian article confirmed that there was a formal inquest held at the Upington Magistrate court where testimony was given by a Mr Pienaar. The family corroborates that there was a formal inquest held. TRC hearing follow up with regards to missing documents. No police docket, no post-mortem record or</p>	No	C Phase of investigation



			<p>crime scene information available. No witnesses apart from Pienaar. The investigation of the correctional services also could not be traced. Mr Jacobs also went with the investigative team to UWC and national Archives to trace necessary documentation.</p> <p>There were accountability sessions and meetings with families. Civil claim was instituted but withdrawn.</p> <p>Reconstruction of the crime scene done but there is clarification required, and the sketch plan is awaited.</p>		
4 <sup>th</sup> Applicant Fatiema Haron- Masoet	Mr Abdullah Haron	Western Cape-	The inquest into the death of Mr Haron re-opened in 2022.	Yes	Inquest finalised. Decision taken-



		Inquest re-opened and finalised.	Evidence was led. On 9 October 2023, the original court finding was overturned. On 2 October 2025, the NPA took a decision to decline to prosecute any person in relation to the death of the deceased.		decline to prosecute
5 <sup>th</sup> Applicant Tryphina Nomandlovu Mokgatle	Mr Zandisilie Muzi-COSAS Four-was the last surviving member who subsequently passed away. Messrs Eustice Madikela, Peter Matabane and Fanyana Nhlapo were killed in the explosion in 1982	Case enrolled on the criminal court roll-South Gauteng Criminal Trial S v Mfalapitsa and another	Although the matter was set down for trial on several occasions, there have been various applications which prevented the matter from commencing. This included review applications, the failure by SAPS to fund the costs of legal representation of accused persons, recusal applications against the presiding officer, an application brought by SALC to be joined in the criminal trial as	yes	On the criminal court roll

  
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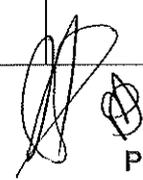
			<p>friends of the court, a challenge to the validity of the charge of Crimes against humanity (CAH) etc. The trial was to have commenced on 14 April 2025 after the challenge to the CAH charges were dismissed on 14 April 2025. The accused then brought an application against the judge to recuse himself. The application was argued. And refused on 23 April 2025. The accused then applied for leave to appeal which was to be heard on 9 May 2025. An application for recusal of the judge was heard and dismissed. Leave to appeal against the charges of crimes against humanity</p>		
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			<p>(CAH) was also appealed and dismissed. A trial date was set down for 20 October 2025. Accused 2 has now petitioned the SCA with a view to appeal the decision of the court dismissing the challenges to the validity of the charges. A second application for the court's dismissal of their leave to appeal regarding the recusal of the judge. There are two applications regarding the matter. The respondent (State) had to file a notice to oppose and answering affidavit for both the motions. Leave to appeal has been granted by the SCA. Remanded to 26 March 2026, a provisional trial date</p>	
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			has been set for 20 July 2026.		
6 <sup>th</sup> Applicant Karl Andrew Weber	Highgate Hotel Massacre (Deceased: Messrs Stanley Hacking, Douglas William Gates, Royce Michael Wheeler, Deon Harris and Deric John Whitfield. Several others were injured including Mr Weber.	Eastern Cape- Formal Inquest commenced- judgement is expected on 1 December 2025	The inquest into the deaths of the five deceased commenced on 27 January 2025 and continued until 7 February 2025. Matter resumed on 24 March 2025 until 27 March 2025. It was postponed to 11-13 August 2025 and then 1-4 September 2025 for arguments. Judgement is expected on 1 December 2025. Mr Weber was shot and injured during the attack. He testified at the inquest.	Yes	Inquest commenced- Judgment on 1 December 2025
7 <sup>th</sup> Applicant Kim Turner	Dr Richard Turner	Kwa-Zulu Natal Decision taken to hold an inquest	The DPP has taken a decision to hold a formal inquest. The matter was to be heard at the magistrate court. The	Yes	Formal inquest to be held.



			<p>DPP received a request from the family legal representative to hold the inquest in the High court. DPP acceded to the request. Tracing of witnesses and drafting of documents for the holding of inquest is underway. Translation of documents. Consultations been finalised. Pagination and indexing of documents underway. Virtual consultation took place with family members and legal representatives. A new investigator has been appointed. It is envisaged that the matter is set down for this year. Continuous engagements with</p>	
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			family members and legal representatives.		
8 <sup>th</sup> Applicant Lyndene Page	Highgate Hotel Massacre-as indicated above, sister to Deon Harris who lost his life during the attack.	Eastern Cape- Inquest commenced. Evidence has been led.	As above. A formal inquest was held. Ms Page testified at the inquest. The inquest commenced, evidence was led, and judgement is expected on 1 December 2025.	Yes	Inquest commenced- judgment on 1 December 2025
9 <sup>th</sup> Applicant Mbuso Khoza	Mr Sbho Phewa	Kwa-Zulu Natal- Case enrolled on the criminal court roll.	This matter is on the criminal court roll where several persons have been charged in S v Botha and two others. (Botha, Du Preez and Ras). The matter has been postponed to 31 October 2025 for the accused to process their applications for legal representation. This matter is joined with that of Ms Kubheka below. Botha and Du Preez's	Yes	The matter is on the criminal court roll



			<p>application for legal representation was granted by the SAPS, attorney appointed. State Attorney did not appoint Senior Counsel as per request. The appointment of senior counsel remains unresolved. Ras' application was approved, and he elected to have attorney Mr Muller with senior counsel. The State attorney appointed a junior counsel. Ras has rejected the appointed counsel stating he does not want a junior advocate.</p>		
10 <sup>th</sup> Applicant Neville Beling	Highgate Hotel Massacre- injured in the attack.	Eastern Cape Inquest held. Judgement not be delivered on	Pertains to the Highgate hotel inquest. Evidence was led. Mr Beling testified at the inquest. Judgement is	Yes	Inquest commenced. Judgment on 1 December 2025



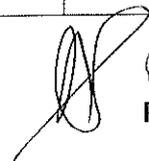
		1 December 2025.	expected on 1 December 2025.		
11 <sup>th</sup> Applicant Nombuyiselo Mhlauli	Cradock Four-spouse of Mr Sicelo Mhauri	Eastern Cape The third inquest has re-opened and is on the court roll.	The third inquest into the deaths of Messrs Mhauri, Mkonto, Goniwe and Calata commenced with evidence led on 2-June 2025. Judge Beshe presides over the matter. The matter has been postponed to 13-24 October 2025 for further evidence and issues pertaining to legal representation for SADF members to be resolved. This is underway. The third inquest into the deaths of the Cradock Four commenced as above. The matter has been remanded to March 2026.	Yes	Inquest commenced, evidence has been led.
12 <sup>th</sup> Applicant Sarah Bibi Lall	Dr Hoosen Mia Haffejee	Kwa-Zulu Natal- Inquest re- opened.	Inquest re-opened and finalised. Decision taken by the DPP-declined to	Yes	Inquest commenced. Findings overturned.

		Inquest finalised.	prosecute anyone in connection with this matter. All the witnesses are deceased. This has been communicated to the family.		Decision taken, decline to prosecute
13 <sup>th</sup> Applicant Sizakele Ernestina Simelane	Ms Nokuthula Simelane	North Gauteng-matter enrolled on the criminal court roll	This matter is on the criminal court roll since 2016. There have also been numerous applications including issues pertaining to legal representation, the demise of counsel and instructing attorney, the demise of two fo the original four accused, a request for the addition of certain charges etc. A s77(3) inquiry is underway where one of the accused has alleged, he is unable to follow proceedings. Matter has been postponed to 1-3 October 2025	Yes	The matter is on the criminal court roll-section 77(3) hearing underway

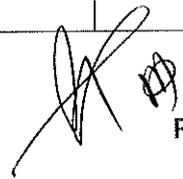


			for arguments. Judgment will be delivered on 21 January 2026.		
14 <sup>th</sup> Applicant Sindiswa Elizabeth Mkonto	Cradock Four-Spouse of Mr Mkonto	Eastern Cape-third inquest into the death of the Cradock four is underway.	The third inquest into the deaths of Messrs Mhauri, Mkonto, Goniwe and Calata commenced with evidence led on 2-11 June 2025. Judge Beshe presides over the matter. The matter has been postponed to 13-24 October 2025 for further evidence and issues pertaining to legal representation for SADF members to be resolved. This is underway. Further evidence has been led. The matter has been postponed to March 2026.	Yes	Inquest has commenced. Evidence has been led.
15 <sup>th</sup> Applicant Stephans Mbuti Mabelane	Mr Matthews Mojo Mabelane	South Gauteng- inquest re- opened	The inquest into the death of Mr Mabelane was re-opened. The prosecutor seized	Yes	The inquest has been re-opened. The prosecutor passed away.

			<p>with the matter passed away in July 2025. Efforts are underway to replace and bring the new prosecutor up to speed to enrol the matter. The NPA has arranged a preparation meeting with the legal representatives of the family.</p> <p>On 23 September 2025, intervention measures were staged to bring the new prosecutor, the TRC Nodal point up to speed to place the matter on the roll. Dates for case management and subpoenas to be served, arranged.</p>		<p>Intervention measures put in place to enrol matter.</p>
16 <sup>th</sup> Applicant Thuli Kubheka	Ms Ntombikayise Kubheka	Kwa-Zulu Natal- Enrolled on the criminal court roll	Several persons have been charged in this matter. The matter is on the criminal court roll. S v Botha and	Yes	The matter is on the criminal court roll




			others. The matter has been postponed to 31 October 2025 for their applications for legal representation to be finalised. Matter joined with Mr Phewa above.		
17 <sup>th</sup> Applicant Hlekani Edith Rikhotso	Mr Ignatius Mthebule	South Gauteng	This matter is still under investigation. Several statements have been obtained from senior members of the ANC. Meeting held with legal representative of the family. Statement of person of interest obtained. Additional witness statements to be obtained. On 16 September 2025, a meeting held with Mr Jos Venter, representing the family. He was briefed on the status of the matter. Remaining	Yes	Investigation is ongoing.



			statements to be obtained. Decision to be taken.		
18 <sup>th</sup> Applicant Tshidiso Motasi	Sgt Richard and Mrs Irene Motasi	North- West- Decision taken by the office of the DPP	This matter is at a sensitive stage of investigation. It cannot be discussed due to its sensitivity. The family of the deceased have been updated on developments in this matter. Matter was identified for fast tracking. Meeting was held with family legal representatives where they made representations. Expert opinions obtained. Challenge with demarcation, matter will be transferred to North Gauteng. Special project meeting ensued, persons of interest utilised similar modus operandi.	Yes	Decision pending from the office of the DPP

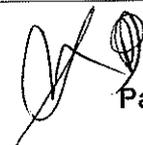


19 <sup>th</sup> Applicant Nomali Rita Galela	Messrs Champion Galela, Siphon Hashe and Qaqawuli Godolozzi aka as the PEBCO Three	Eastern Cape-Date for formal inquest to be set down.	The Minister has authorised the holding of a formal inquest. A date must be set and a judge appointed.	Yes	Formal inquest to be held. Date to be arranged for the formal inquest to be held at the Gqeberha High court
20 <sup>th</sup> Phumeza Mandisa Hashe	PEBCO Three- Spouse of Mr Siphon Hashe	Eastern Cape	The Minister has authorised the holding of a formal inquest. A date must be set and a judge appointed.	Yes	Formal inquest to be held. As above
21 <sup>st</sup> Applicant Mkhontowesizwe Godolozzi	PEBCO Three- Spouse of Mr Qaqawuli Godolozzi	Eastern Cape	The Minister has authorised the holding of a formal inquest. A date must be set and a judge appointed.	Yes	Formal inquest to be held. As above
22 <sup>nd</sup> Applicant Mogapi Solomon Tlhapi	Mr Nicholas Majestic Boiki Tlhapi	North- West	The inquest into the death of Mr Tlhapi has been re-opened. It has been enrolled for case management before Judge Petersen. A date for the hearing to be set	Yes	Inquest has been re-opened. Judge Petersen appointed. Awaiting confirmation of a date, 18/19 November 2025,

			<p>down. The first pre-inquest hearing took place on 9 September 2025. A court date is expected in November 2025 for case management. Subpoenas to be issued.</p>	<p>for the subpoenas for person of interest.</p>
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68 The following statistics are also important, more so for the context in this matter:

Matters on the criminal court roll	6	<p>S v Mfalapitsa and another (deaths of the COSAS Four)</p> <p>S v Coetzee and another (death of Ms Simelane)</p> <p>S v Engelbrecht and others (death of Mr C Nyoka)</p> <p>S v Botha and others (death of Ms Kubheka and Mr Sbo Phewa-2 matters)</p> <p>S v Schoon and others (death of Mr Mngomezulu)</p>
Convictions	2	<p>On 10 July 2025, former police officer Mr Johan Marais was convicted and sentenced to fifteen years imprisonment for the murder of Mr Nyoka.</p> <p>On 8 November 2023, former security branch police official, Mr Wesley Madonsela was convicted and sentenced to ten years imprisonment for the 1989 murder of a UDF supporter.</p>
Inquests re-opened or on the court roll	12	<p>The re-opened inquest into the deaths of the Cradock Four</p> <p>The re-opened inquests into the death of Mr Griffiths Mxenge</p> <p>The re-opened inquest into the death of Chief Albert Luthuli</p> <p>Inquest into the deaths of the Northcrest Five</p> <p>Inquest-The Highgate Hotel</p> <p>The re-opened inquest into the death of Mr Booi Mantyi</p> <p>Inquest-Mr Moss Morudi</p>



		<p>The re-opened inquest into the death of Mr Boikie Tlhapi</p> <p>The re-opened inquest into the death of Mr Mathews Mabelane</p> <p>The re-opened inquest of Mr Stephen Bantu Biko</p> <p>Inquest-PEBCO Three</p> <p>Dr Rick Turner</p> <p>Mr Kehla Nkutha</p>
Pending inquests	6	<p>Mr Sithembiso Nzuzo and Mr Moses Ramotlo</p> <p>Mr V Msani</p> <p>Mr V Mbatha</p> <p>Mr S Shezi</p> <p>Mr Ndaba</p> <p>Mr Shabalala</p>
Finalised inquests	7	<p>Inquest of Mr Oupa Ronald Madondo</p> <p>Inquest of Mr Mthunzi Vlemseni Njakazi</p> <p>Re-opened inquest of Dr Neil Hudson Aggett</p> <p>Re-opened inquest of Mr Ernest Dipale</p> <p>Re-opened inquest of Mr A Haron</p> <p>Inquest-Mr Zama Sokhulu Mlobeli</p> <p>Re-opened inquest of Dr HM Haffejee</p>
Pending application for re-opening	3	These are applications where memoranda are underway to re-open inquests.
Decisions taken	39	These are cases where investigations have been exhausted and decisions have been taken to close the matter, or where amnesty was granted, or where persons were charged, convicted and sentenced, or offences have prescribed etc.
Potential prosecutions	2	Indictments underway

- 69 Other matters highlighted: The Kwamakutha massacre-This matter is under investigation by the Kwa-Zulu Natal TRC unit. The Ntuli family massacre occurred on 21 January 1987, where 13 members of the Ntuli family were ambushed and killed. In what became known as the Malan trial, 20 accused persons were prosecuted. The investigation underway was identified as a matter for investigation because of the refusal of immunity by the trial court. DPCI investigations, under the watch of the NPA's TRC Nodal point is presently underway. During a meeting held with the NPA/DPCI and legal representatives on the matter of Dr Rick Turner, inquiries were made for information on the Ntuli family massacre which had already been identified and registered for investigation. The Ntuli family is kept updated on all developments in the matter.
- 70 The Esikhawini murders were committed in the context of the political violence between certain political parties. The matter is under investigation. Both the NPA and DPCI provide feedback to the families. The mandate is to focus on matters which were referred to the NPA by the TRC. Whilst some matters were considered and decided upon, others were not dealt with by the TRC. Where there is evidence of the commission of a crime, charges will be preferred.
- 71 The Bambo matter: This was also dealt with in the response to the Portfolio Committee. A decision is imminent in this matter.

- 72 Sons and Els: The matter was dealt with by Mr Veenemens, based with the Representation section of the NPS and a decision was taken to decline to prosecute. His affidavit is attached, **Annexure I**.

Cradock Four docket: Despite efforts to trace the original Cradock Four docket, I have not been successful. The third inquest into the death of the Cradock Four is underway in the Gqeberha High Court. Since September 2021, whenever a docket was handed over, this was done against a signature, of the investigating officer concerned. All copies of the Cradock Four matter which were located were handed over to the investigating officers between January 2022 and April 2022, were handed over to the investigating officers for comparison with what was contained in the reconstructed docket.

- 73 It is important to also note that whilst all matters are important, progress has also been made on matters even where FHR is not involved including and not limited to the re-opened inquest into the death of Mr Stephen Bantu Biko, the re-opened inquest into the death of Mr Griffiths Mxenge, the Northcrest Five (Messrs Mzwandile Mfeya, Sandiso Yeso, Samora Mpendulo, Sadat Mpendulo and Thando Mthembu), the re-opened inquest into the death of Mr Booi Mantyi, the inquest into the deaths of Mr Zama Sokhulu Mlobeli, Mr Mthunsi Vlemeseni Njakazi, Mr Oupa Ronald Madondo, the re-opened inquest of Chief Albert Luthuli, amongst others.

- 74 Whilst acknowledging that all matters are important, and factoring in the duration that it has taken for TRC matters to be investigated, all the resources cannot be pooled into investigating matters only where legal representatives are involved.

  
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MINUTES OF THE MEETING OF TASK TEAM ON TRC CASES 16/11/2006

Members present:

- Dr Ramaite
- Adv Ackermann SC
- Adv Chris Macadam
- Comm Jacobs
- Yvonne Mabule
- Marlyn Raswiswi
- Nhlanhla Ngidi
- Mthunzi Mhaga

Apologies: Josias Lekalakala  
Brian Koopedi

Minutes of the last meeting read and adopted as true reflection of the meeting.

Matters arising from the minutes of the last meeting discussed.

Adv Macadam informed the meeting of a representation from the family of Claire Steward who requested investigations of the matter.

Adv Ackermann raised a concern over the impression created by the revised audit report from SAPS that he had indicated his intentions of exploring the possibility of prosecuting the President and 37 ANC leaders. He contended that it was SAPS through Supt Brits who had persuaded in vain the PCLU to prosecute the President as there was enough evidence on the case. He said that SAPS was the driving force behind such prosecution and Adv Macadam produced a letter he wrote to Supt Brits in which he indicated that no sufficient evidence exists to institute such prosecution. He asked Comm Jacobs if he agrees with that contention.

Dr Ramaite enquired from Adv Ackermann on the relevance of the complaint but also said he understood his frustration. He however called upon any agency intending to have an input on the matter to come forward with such.

Adv Ackermann wanted to know from Comm Jacobs who compiled the report and why was it necessary to include cases that had been finalised and request inquests on such matters.

Comm Jacobs indicated that he compiled the report and requested guidance from the meeting on how to deal with outstanding inquests. He said they had six inquests, some had been finalised and others not done at all and that all were TRC matters.

Adv Macadam clarified the position relating to the case against the President and the 37 ANC leaders.

Adv Ackermann indicated that he was really not happy with the report ~~about the ANC~~

~~MS~~

SAPS  
ICA  
ANC

Dr Ramaite asked if a reconciled report with SAPS and PCLU had been compiled to consolidate all TRC cases for investigations. In so far as the President maintained that as long the status quo remains the same the matter will be considered closed.

Mthunzi and Comm Jacobs undertook to compile such a report with a view of identifying cases for appointment of investigating officers by SAPS as Comm Jacobs indicated that he Comm de Beer has undertaken to appoint a investigators for all cases.

Dr Ramaite asked the task team to agree on the time frame for final recommendations as we only had interim recommendations pertaining to some cases.

Yvonne raised a concern on identifying matters to utilise NIA on security aspects but agreed that on completion of investigations and receipt of representations from perpetrators such could be dealt with depending on the circumstances of the cases.

Anton suggested NIA provides the PCLU with any information they might have on these cases fro a security point of view.

Mthunzi was requested to compile a draft progress report on the task team to be submitted to the NDPP and other principals. The

Adv Macadam asked to be excused fro the meeting.

It was agreed that the task team has indeed made progress as there were already cases identified fro investigations and interim recommendations made on some cases.

The meeting was then closed and Mthunzi was asked to arrange a suitable date for the next meeting and that PCLU and SAPS must place before the task team a reconciled list of cases for appointment of investigators within two weeks

BATCH 2  
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Received 2006/11/16

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MINUTES OF "TASK TEAM ON TRC CASES" MEETING 6/11/06

Members present:

- Adv Ackermann SC
- Comm Jacobs
- Brian Koopedi
- Yvonne Mabule
- Marlyn Raswiswi
- Nhlanhla Ngidi
- Josias Lekalakala
- Mthunzi Mhaga

2 weeks  
Draft  
meet on 10/5  
Meet  
1st week December  
Reconciliation

Apologies:

Meeting started at 09H15 and Dr Ramaite requested Mr Ngidi to chair the meeting because he was attending a meeting with the NDPP.  
Minutes of the last meetings were adopted with a few amendments.

Adv Ackermann dealt with the revised audit report which incorporated an objection of the proposed reappointment of Mr Britz to assist SAPS in compiling their report. However Comm Jacobs maintained that he had been misunderstood as he never said he will seek the services of the said Mr Britz. The matter was therefore closed as no further action was contemplated.

A revised audit report from SAPS was circulated to all members but it was felt that it would be fair for members to study the report and reserve their deliberations for our next meeting.

Brian suggested that Adv Ackermann should proceed with the <sup>in identified</sup> prosecutable matters reflected in PCLU's first report. The suggestion was supported and he proceeded as such.

During his presentation several recommendations were made except for a few matters which were held in abeyance pending further information. *I must mention however that for the purposes of these minutes I deem it fit not to give such detailed recommendations as a full progress report is still to be compiled on all these matters.*

It is however worth mentioning that When Adv Ackermann informed the meeting that a decision to prosecute has already been made by the NDPP on the Reverend Chikane case, Josias indicated that recommendations of

P.B.G. [Signature]

the "task team" are necessary because the National Commissioner is of the view that Rev Chikane is not interested in prosecution of the matter. He suggested that contact has to be made with Rev Chikane to ascertain his attitude. *Ackermann also informed that NPA discussed the matter with Rev. Chikane.*

According to Adv Ackermann the complainant (Rev) indicated that he leaves the matter in the hands of the NPA. It was then decided that the latter's attitude be ascertained and the matter was therefore closed pending a feedback on his attitude.

Brian and Adv Ackermann asked to be excused and they left the meeting but shortly thereafter it was closed and Mthunzi was tasked with arranging the date and venue for the next meeting.

Prepared by Mthunzi Mhaga

*MA* *EM*

MINUTES OF TASK TEAM MEETING 29/01/2007

Members Present:

- Adv Ackermann SC
- Mthunzi Mhaga
- Nhlahlhla Ngidi
- Comm Jacobs
- Brian Koopedi
- Yvonne Mabule
- Marilyn Raswiswi
- Josias Lekalakala

Apologies: Dr Ramaite

The meeting was chaired by Mr Ngidi due to unavailability of our Convenor Dr Ramaite.

The minutes of the last meeting were read and adopted with some amendments and Yvonne requested for elaborations on minutes in future.

Adv Ackermann SC requested members for their inputs with a view to finalise the draft report to be submitted to the National Director. Commissioner Jacobs indicated that he was made to understand that Rev Chikane was not interested in the prosecution of the accused in his case, therefore he needs to be consulted and the matter needs to be discussed with their principals before making recommendations.

Adv Ackermann SC reminded the meeting that the National director has made his decision on the matter. Yvonne concurred with Comm. Jacobs on Rev Chikane matter. Mr Ngidi however had no objection to the National director's decision on the Rev Chikane matter.

Comm Jacobs informed the meeting that he has gone through the docket on the Highgate Hotel attack and is of the view that no further investigations is necessary. It was agreed that PCLU would have to look at the docket.

It was then agreed that Mthunzi will be provided with all the views of the agencies after meeting with their principals before 7/2/7 and finalise the report.

Comm Jacobs informed the meeting that he is waiting for a feed back from Provincial Commissioners on the appointment of investigators. Some had responded and provided him with a list of the investigators. He also requested a list of SAPS dockets in possession of the PCLU.

The meeting was then closed.

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MINUTES OF A TRC MEETING HELD ON 4 DECEMBER 2007

- 1. PRESENT: Dr Ramalfe  
Adv. Ackermann SC  
Comm. Jacobs  
Josias Lekalakala  
Irene Freeman (standing in for Mr Ngidi)  
Maryln Raswiswi  
Mthunzi Mhaga
- 2. APOLOGIES: Brian Keopedi (overseas)  
Yvonne Mabule (sick leave)  
Mhlauhla Ngidi (meeting)

3. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were read and adopted with amendments.

4. MATTERS ARISING

4.1 Matters that arose from the minutes were the following:

- 4.1 Draft report on the progress of the task team; and
- 4.2 The Highgate Hotel case.

4.2 Josias suggested that members need to consult with their principals before the trial report is submitted to the National Director. Members were requested to mail their inputs after consulting their principals before 7 December 2006.

4.3 Josias also asked if NIA had submitted any opinion relating to security aspects of cases identified for prosecution.

4.4 Dr Ramalfe drew attention to page 2 of the minutes on Yvonne's concern.

4.5 Commissioner Jacobs informed members that he has sent a letter to Commissioner de Beer and the list of all investigators will be ready soon.

4.6 Adv Chris Macadam indicated that we need to adopt a wait and see approach as all perpetrators will probably make representations in anticipation of prosecution upon completion of investigations.

4.7 He also briefed the meeting on the Claire Stewart case.

*[Handwritten signature]*

He also informed the meeting of media reports on reopening of the Highgate Hotel attack in East London. It was agreed that Commissioner Jacobs and Adv Mhaga will work together on the matter.

4.8 Adv Macadam suggested that there is a need to establish a data base to determine information available on all cases.

5. ~~The meeting ends at~~

6. NEXT MEETING

The next meeting will take place next year at a date to be arranged by Mthunzi.

7. Proposed agenda for next meeting

- (a) Minutes of the last meeting ✓
- (b) Matters arising
- (c) Finalization of draft report
- (d) Appointment of investigators
- (e) Other matters
- (f) Next meeting

*Handwritten signature*